# U.S. DEPARTMENT OF TRANSPORTATION

**Minimum Training Requirements for**

**Entry-Level Drivers of Commercial Motor Vehicles**

**Docket No. FMCSA-2007-27748**

**Negotiated Rulemaking Committee**

**Ground Rules**

## Goal of the Negotiated Rulemaking Committee on Minimum Training Standards for Entry-Level Drivers of Commercial Motor Vehicles (“Committee”)

The goal of the Committee is to, in good faith, reach consensus on a recommended rule on federal minimum training standards for entry-level drivers of commercial motor vehicles as required by the Moving Ahead for Progress in the 21st Century Act[[1]](#footnote-1) (MAP-21) sec. 32304 (see Annex). The objective is that each party will support the consensus recommendation formed by the Committee.

## Participants

* 1. **Interests Represented**.Any interest that would be significantly affected by the rule may be represented in the negotiations.
  2. **Parties to the Negotiations**. The Committee consists of those individuals whom the Administrator appoints, as nominated by the affected interests. Each organization or interest caucus that is directly represented on the Committee shall be deemed a party to the negotiations.
  3. **Committee Members**.Each Committee member appointed by the Administrator agrees to serve until the dissolution of the Committee unless that member becomes unable to serve, resigns, or ceases to maintain the representational requirements.
  4. **Alternates for Committee Members**.Each party to the negotiations may designate an alternate Committee member. Alternates may substitute for Committee members in the event the member cannot attend a session of the Committee. Only Committee members may vote on any consensus recommendation, and any alternate casting a vote shall do so on behalf of the Committee member, and not as a representative of their own organization’s interest, if different. Alternates may vote on the final recommendation only on the instructions of their principal.
  5. **Additional Interests**.Additional organizational interests may join the Committee after negotiations have begun only with the consensus of the Committee.

## Attendance and Participation at Meetings.

* + 1. Attendance. Each Committee member agrees to make a good faith effort to attend every session of the Committee. In addition, the Committee member's alternate agrees to make a good faith effort to attend all Committee meetings and to represent the interest at any meeting that the member is unable to attend.
    2. Participation. Only Committee members or their alternates have the privilege of sitting at the negotiating table. Any party may speak from the floor during the negotiations; however, the Committee may limit discussion as needed to resolve issues in a timely manner.
  1. **Constituents' Interests**. Committee members are expected to represent the concerns of their interest group to ensure that any agreement developed by the Committee is acceptable to the organization or caucus which the Committee member represents.

## Decision making

* 1. **Consensus**.

The Commi­­­ttee will operate by consensus which, for these purposes, means no more than 3 negative votes. Abstention shall not be construed as a negative vote. All agreements reached during the negotiations are tentative and may be made by the members present at the meeting or their Alternates who attend a meeting in their stead until the Committee reaches an agreement that is binding on the parties. Any dissenting views will be included in the final Written Statement to the Administrator in terms agreeable to the dissenting party.

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* 1. **Subcommittees**
     1. Subcommittees may be formed to address specific issues and to develop information for, advise, and make recommendations to the Committee. Other individuals who the Committee believes would enhance the functioning of a subcommittee or representatives of interests that would be significantly affected by the topics addressed by the subcommittee but which are not otherwise represented on the Committee may also serve on that subcommittee. Not all organizations or interest caucuses represented on the Committee need to participate in each subcommittee.
     2. The Federal Motor Carrier Safety Administration (FMCSA) will provide appropriate support for the Committee and the subcommittees, including senior technical staff, clerical support, and so forth.
     3. Subcommittees are not authorized to make decisions for the Committee as a whole, but shall submit their report, including any recommendations, to the full Committee.
     4. Subcommittee meetings will be held between the full sessions and will be scheduled in the same location and time whenever possible. All Committee members will be notified via email of all subcommittee meetings.
  2. **Discontinue if Unproductive**. The Committee may discontinue negotiations at any time if they do not appear productive.
  3. **Deadline for Negotiations**.Every reasonable effort shall be made to conclude negotiations by May 29, 2015; a Written Statement shall be submitted to FMCSA by June 15, 2015 regarding the status and include any agreed-to Term Sheet.

## Agreement

* 1. **Term Sheet and supporting analysis**. Any agreement reached by the Committee on recommended rules will take the form of a Written Statement that will be signed by all parties to the negotiations; the Written Statement will contain all voting results. It is anticipated that the agreement will include a Written Statement that includes (a) a Term Sheet outlining the significant terms of the Proposed Rule and (b) supporting analysis as needed to explain and justify the agreed-to terms from a legal and policy perspective. Members dissenting on particular issues should provide the basis for their negative vote. FMCSA staff will be responsible for translating this Term Sheet and analysis into the language of a proposed rule, its supporting preamble, a Regulatory Impact Analysis, and all other appropriate materials necessary for the publication of a Notice of Proposed Rulemaking.
  2. **Statement as Basis for Notice of Proposed Rulemaking (NPRM).**

In the case of a unanimous vote, FMCSA agrees to use the Written Statement and any recommended regulations as the basis for the Notice of Proposed Rulemaking to the maximum extent possible, consistent with the agency’s legal obligations. In the case of a non-unanimous vote, where FMCSA is not a dissenting vote, FMCSA agrees to use the Written Statement in any recommended regulation. In the case of a non-unanimous vote where FMCSA is a dissenting vote, FMCSA agrees to strongly consider the Written Statement and recommended regulation as the basis for a Notice of Proposed Rulemaking, and to explain in such notice its reasons for not accepting the consensus recommendation. FMCSA will include the consensus recommendation and any dissenting views in any proposal issued.

* 1. **Public Comments following publication of the NPRM**. The Committee members request FMCSA to provide a comment summary of the comments received in response to the published Notice of Proposed Rulemaking to the Committee so that the Committee may provide its recommendations -- prior to issuance of a Final Rule -- on what, if any, changes to the proposed rule are warranted based on those comments.
  2. **No Challenge**. Each Committee member agrees to make good faith efforts to represent its affected interests, including raising concerns and dissenting views. Accordingly, each Committee member who votes in favor of the Written Statement agrees not to take a position materially inconsistent with the Written Statement or the position that a member supported in the Written Statement in any public forum to the extent that the proposed or final rule have the same substance and effect as the Term Sheet, for a period of one year from the date the Written Statement is approved. In the absence of consensus, parties shall not be bound by positions taken or accepted during these negotiations. Subsequent to filing the Written Statement with FMCSA, if a member reiterates a dissent it supported in the Written Statement, any member or organization whose representative voted in favor of the Written Statement shall disclose that fact in any later comments on the Written Statement.

## Facilitator

A neutral facilitator will work with all the parties to ensure that the process runs smoothly. The facilitator serves at the will of the Committee.

## Meetings

* 1. **FACA and NRA**. The negotiations will be conducted under the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act of 1990 (NRA).
  2. **Open Meetings**. Negotiating sessions will be announced in the Federal Register prior to the meeting and will be open to the public.
  3. **Meeting Transcripts**. The proceedings will not be electronically recorded, but summaries of Committee meetings will be circulated for the convenience of the Committee. Such summaries shall not be approved by the Committee and shall not be construed or taken to represent the official position of FMCSA, the Committee or any member as to what transpired at Committee meetings.No photographs may be taken during meetings without the approval of the Committee.
  4. **Work Product**.Any documents created during the Committee meeting will be made available to the Committee members as soon as possible.

## Future Amendments

Committee members may propose modifications to this document, with due consideration given to such proposals.

**VOTE: Unanimous adoption, zero abstentions, February 26, 2015.**

**Annex to**

**Minimum Training Requirements for**

**Entry-Level Drivers of Commercial Motor Vehicles**

**Negotiated Rulemaking Committee Ground Rules**

**As amended by MAP-21 sec. 32304 (Commercial Motor Vehicle Operator Training), 49 U.S.C. 31305(c) currently reads as follows:**

(c) STANDARDS FOR TRAINING.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

1. addressing the knowledge and skills that—
   1. are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and
   2. must be acquired before obtaining a commercial driver’s license for the first time or upgrading from one class of commercial driver’s license to another class;
2. addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements;
3. requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;
4. requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and
5. requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.

1. Pub. L. 112-141, 126 Stat. 405 (July 6, 2012). [↑](#footnote-ref-1)