



Minutes May 28-29, 2015, Meeting

The Federal Motor Carrier Safety Administration's (FMCSA) Entry-Level Driver Training Advisory Committee (ELDTAC) met on May 28-29, 2015, in Washington, DC. In accordance with the Negotiated Rulemaking Act, 5 U.S.C. §561-570, and the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, the meeting was open to the public. Richard Parker, Facilitator, called the meeting to order at 9:00 a.m. on Thursday, May 28, 2015. The following individuals attended the meeting:

ELDTAC COMMITTEE MEMBERS

Lamont Byrd ¹ , Director of Health and Safety, International Brotherhood of Teamsters	Ken Presley, Vice President, Industry Operations, Chief Operating Officer, United Motorcoach Association (UMA)
James Edwards, National Association of Small Trucking Companies (NASTC)	Bob Ramsdell, Chief Operating Officer, West Durham School Services, National School Transportation Association (NSTA)
Martin Garsee, Immediate Past President National Association of Publicly Funded Truck Driving Schools (NAPFTDS)	Margaret Rohanna, School Bus Program Manager, Massachusetts Registry Motor Vehicles, Massachusetts Department of Transportation (MASSDOT)
Scott Grenerth, Director, Regulatory Affairs, Owner- Operator Independent Drivers Association (OOIDA)	Lauren Samet, Assistant Director, Paraprofessionals School-Related Personnel, American Federation of Teachers, AFL-CIO
Clyde Hart, Vice President of Government Affairs, American Bus Association (ABA)	Brian Sherlock, Amalgamated Transit Union, AFL-CIO
David Heller, Director of Safety and Policy, Truckload Carriers Association (TCA)	Alan Smith, Director, Safety and Security, Greyhound Lines, Inc.
Charles Hood ² , Executive Director, National Association of State Directors of Pupil Transportation Services	Carl Spatocco, Regional Vice-President, Educational Affiliates, Commercial Vehicle Training Association (CVTA)
Peter Kurdock, Director, Regulatory Affairs, Advocates for Highway & Auto Safety (AHAS)	Bryan Spoon, Owner-Operator, Spoon Trucking
John Lannen, Executive Director, Truck Safety Coalition	Louis D. Spoonhour, Senior Advisor for Commercial Driver's License Programs, Stevens Transport
Kevin Lewis, Director, Driver Programs, American Association of Motor Vehicle Administrators (AAMVA)	Boyd A. Stephenson, Director Hazardous Materials and Commercial Licensing Policy, American Trucking Associations (ATA)
Larry Minor, Associate Administrator for Policy and Designated Federal Officer (DFO), FMCSA	Robert J. Tershak, Master Trooper, Virginia State Police, Commercial Vehicle Safety Alliance (CVSA)
David Money, ³ Chairman, Board of Directors, Professional Truck Driver Institute (PTDI)	Ellen Voie ⁴ , President and Chief Executive Officer, Women in Trucking (WIT)
David Parker, Senior Legal Counsel, Great West Casualty Company	Ron Wood ⁵ , DC, Volunteer Coordinator, Citizens for Reliable and Safe Highways (CRASH)

¹ Mr. Byrd was replaced by his surrogate, Chris Treml, for both May 28 and 29.

² Mr. Hood was replaced by his surrogate, Ronna Weber, for a portion of May 29, including final votes.

³ Mr. Money was replaced by his surrogate, Brad Bentley, for both May 28 and 29.

⁴ Ms. Voie was replaced by her surrogate, Robert Behnke, for both May 28 and 29.

⁵ Mr. Wood was replaced by his surrogate, Ben Schlesinger, for both May 28 and 29.



Surrogates:

Brad Bentley, President, Truckload Carriers Association
Chris Treml, IUOE

Robert Behnke, Truck Driving Department Chair, Fox Valley Technical College
Ronna Weber, NSTA

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Bob Armstrong, Economist, FMCSA
Betsy Campos, Economist, FMCSA
Brian Dahlin, Chief Economist, FMCSA
T.F. Scott Darling, III, Chief Counsel, FMCSA
Richard Clemente, Transportation Specialist, Office of Policy FMCSA
Selden Fritschner, Chief, Commercial Driver's License (CDL) Enforcement Division, FMCSA
Sean Gallagher, Office of Policy, FMCSA
Kari Hicks, Honors Attorney, FMCSA
Jill Laptosky, Attorney, Office of the General Counsel, U.S. Department of Transportation (DOT)

Kim McCarthy, Regulatory Attorney, FMCSA
Suzanne O'Malley, Assistant Chief Counsel for Regulatory Affairs, Office of Chief Counsel, FMCSA
Robert Redmond, FMCSA Office of Safety Programs, CDL Division
Cynthia Shaffer, Volpe Center, DOT
Howard Stone, Economist, FMCSA
Alan Strasser, Regulatory Attorney, FMCSA
Shannon Watson, Senior Policy Advisor and Deputy DFO, FMCSA

OTHER ATTENDEES

Shannon Allard, National Motor Freight Traffic Association (NMFTA)
Cindy Atwood, CVTA
Brandon Buchanan, ABA
Bob Crescenzo, Lancer Insurance
Charity Coleman, DigitaliBiz
Donnie Colston, International Brotherhood of Electrical Workers (IBEW)
John Diab, CVTA
John Frey, Werner Enterprises
Sean Garney, ATA
Karen Grim, Virginia DOT

Liz Joyce, DigitaliBiz
Don Lefevre, CVTA
Eric Miller, Transport Topics
Mary Beth McCollum, NAPFTDS
Michelle McDermott, NSTA
Liz Nadeau, Attorney, International Union of Operating Engineers (IUOE)
Sarah Powers, ICF
Rudy Supina, Dattco Inc.
Andrea Wohleber, Transportation Trades Department (TTD), AFL-CIO



COMMITTEE ACTION – DAY 1

Call to Order/Approval of Minutes

The agenda for this meeting was adopted unanimously. Agenda changes introduced during the meeting are noted below.

1. Overview of Facilitator's Draft Term Sheet/Discussion of Minimum Level of Effort Specification

Presentation

The draft term sheet states what has been agreed upon so far and what remains contentious. This is the document that will be voted on at the end of the second day's session. There are no objections to the statements in the Key Terms of Proposed Rule section of the document.

Discussion Points: Key Unresolved Issues

Minimum Level of Effort Specification

All have agreed that there is no minimum number of hours assigned to the theory portion. The question is whether or not a minimum number of hours should be applied to road or range training. A variation that had been discussed is requiring a defined number of trips, defined as 50 minutes or longer, as opposed to only hours.

There was also discussion of enhancing the performance assessment and creating a useful audit trail by requiring that a record be kept of each trip, accompanied by a master trip sheet that documents which maneuvers/skills are covered in each trip.

Facilitator discusses three possible options for minimum level of effort specification:

- A. Performance only: As soon as training provider is satisfied student can meet requirements and perform outlined tasks, they are ready to be certified. This would allow a trainee to "test out" of a course, even where the trainee has not completed all scheduled training.
- B. Hybrid Performance and Level of Effort Specification: Trainee must meet X number of hours on range and X number of trips on road in which maneuvers (which track agreed upon curriculum) are performed.
- C. Could be paired with A or B. Requires training providers to fill out and maintain trip sheets for each trip or a master trip sheet in order to track skills students have performed, requiring they demonstrate each skill proficiently at least X number of times [on y number of trips].

– Trip sheets:

- Provides confirmation that the curriculum is correct and verifies trainees are taught it.
- Enforcement-wise, the more evidence being asked to manufacture, the harder it is to fabricate.
- A sample trip sheet is circulated to the committee. It was noted that the use of such trip sheets is standard agency practice.

Arguments in favor of hours-based assessment



- Will there be a minimum standard for hours for trips or to complete in the proficiency requirements? Developing a safe driver requires a certain amount of practice that comes with repetition. The way to get that number of reps is time on the road, so there needs to be minimum hours on the road.
- How will there be a safety net for people who are with bad training providers? You can complete these tasks very quickly if desired. We need minimum hours to ensure that cannot happen.
- If no hours are outlined, there may be a competitor to a good training provider that has an hours requirement that markets “half the time with half the price.” This encourages a race to the bottom.
- It is unclear how a performance-based approach could be enforced, especially without a trip sheet.
- Minimum hours is a bottom-line base standard. No one is suggesting a huge bottom-line number and is willing to compromise that it is a low threshold.
- The best beginning driver could not do this trip sheet in less than 15-20 hours. Normally, a lot more than 20 hours.
- Drivers consulted in the industry relay that minimum hours will not be a huge barrier cost-wise.
- A combination of trip sheets and hours ensures a minimum level of competency/practice and that required skills are taught and observed.
- Is there a minimum hours proposal for every student or an average for all students? For curriculum or on each master trip sheet for each trainee?
 - There has to be a minimum number of hours for completing the requirements of the trip sheet. It is a safeguard against people looking to skirt the rules.
- If there is no minimum in the regulation, it will be hard to punish poorly performing training providers. Audits are a paperwork shuffle. It will be hard to enforce if not stated.

Arguments in favor of pure performance-based assessment

- 10 hours of behind-the-wheel (BTW) at the end of the day does not ensure anything. Road trips can be ambiguous and there is no guarantee of consistency. The trip sheet calls out what is important and ensures that the competencies are met.
- There is a difference between proficiency and competency. If we followed minimum hours, there would be trainees incapable of mastering competency in that time frame. At CDL school training, students get more time if they have not become competent.
- Assuming that without hours there is no proficiency ignores the enforcement arm of FMCSA and watchdogs.
- If we create more restrictions, there is more incentive to replace human drivers with driverless vehicles. We need to be aware of unintended consequences.
- An hours minimum adds costs and barriers to entry. What will fill the void when CDL mills are knocked out? Expansion is limited in scope. The provisions made for the driver who trains 1-3 drivers a year will fill the void because there will be need for more drivers in both the immediate and intermediate terms. The effects of an hours-based requirement will be felt adversely by these people (paperwork, costs, complications).
- If you set a minimum, people will feel like they can comply with only minimal regulations. If someone is scheduled for a test and did not get competency two days before, they will still go to the test. Tests are hard to schedule.
- It will be harder to believably fake a trip sheet as opposed to a minimum number of hours.



- An hours-based system is what held this rule up at the Office of Management and Budget (OMB) last time around. Hours makes the rule a good target for a lawsuit, too. The rule was never submitted to OMB in 2007, only the NPRM was. But FMCSA withdrew that NPRM in 2007.
- The people we can train quickly, we would like to train quickly. Those who take longer, we will spend more time. It is more cost-efficient to spend the needed amount of time on each person. Same safety results for training one fast-learner four hours and a slow-learner twelve hours, as opposed to eight hours for each. Need to focus resources on areas where they are needed.
- There are checks and balances built into this process. Trip sheets require tracking how objectives are met and there is ability to audit.
- This should be put in the protocol of how to evaluate a trainer, not in the language of the law. This only lowers the bar. People will only meet the minimum.
- When auditing, FMCSA will look to see if average hours for graduating classes passes the “smell test.”
- When an accident occurs, litigation follows. In such instances, the training a driver receives at that motor carrier is called into question. At what point does that litigation go back to school records, now that it will be possible to trace drivers back to their CDL training providers?
 - If minimum hours stated, will it become a safe harbor in litigation?

Additional key points for trip sheet

- Will small providers have to do individual trip sheets or just one master with total hours on it?
 - The form is one sheet that covers all of the trips, listing date and time of each skill accomplished and the start and end times of each range and road trip.
- Suggestion to add language so a driver cannot demonstrate the same skill more than once on the same day.
- The form creates the visual presumption that all skills are completed in five trips. Suggestion to add spaces for 10 spaces to mitigate that presumption.
- On the application form, a provider needs to put how many hours they think it takes for each portion.
- Proposal: Review X number skills repetition and Y times in a row. Brief discussion as to what those numbers should be.
 - Proficiency means someone can perform a skill without prompt. The sheet has more on it than a CDL test, i.e. high speed curves.
 - Three times in a row creates a cycle. There needs to be judgment—it creates a complication that is difficult to administer.
 - The idea was to ensure it is not hit or miss.
 - This is regulated by the CDL test administered by the state driver licensing agency (SDLA). Test slots at the SDLA are precious. A trainer would not send a driver who is not ready.
 - Even an experienced driver could have trouble performing a skill three times in a row.
 - Remove this piece and limit to “must perform skill correctly five times.”
- Coupling/uncoupling would never be done with a motorcoach. If used universally, this must be altered. If used as a sample only then okay.
 - Does there need to be an asterisk next to some skills unrelated to Class B?
 - Write “if applicable” next to items that will not apply to Class B.



- What does “high speed curves” mean?
 - It is handling curves at highway driving. Change to “curves at highway speeds.”
 - This is part of the driving test starting in July.
- **Public comment**, Don Lefevre, CVTA: For good government’s sake, add a space for student signature.
- If schools wanted to maintain individual trip sheets, they are able to.
- It may be beneficial to attach a copy of driving logs to this sheet for auditing purposes.
 - Is this suggested? School bus drivers do not carry log books.
 - Is there information in the log that is not on the sheet that would be beneficial for auditing purposes?
 - Hours can be calculated from master trip sheet, so no.
- Is the intention of this sheet to be a guideline or the required form?
 - There should be flexibility to lay out form differently, but all provided data points must be represented. It is a guideline/safe harbor if use this form?
- Upshifting and downshifting needs “if applicable” as well.

Facilitator called for a vote to adopt form (option C) with new changes, without prejudice to position on options A and B—passed unanimously. There are the following concerns related to the vote:

- Is the form in relation to A or B? This makes a difference of opinion on the form.
- The need of the form may change whether or not option of B is adopted, and if it is, the number of hours chosen.
- This is all part of a package; nothing is final until a vote on the final package.
 - You can dissent on individual annexes but still consent to the final document.
- Do not want to create a compounding issue.

Conclusion

Agreed upon changes outlined in discussion are adopted for the trip sheet. Broad consensus is that trip sheet is part of final package, but the question remains for whether or not to specify minimum hours.

2. Discussion and vote on other unresolved issues (instructor qualifications, split training providers, stranded students)

Discussion Points

Minimum qualifications of instructors

- Two year recommendation of driving experience or on-road CMV trainer becomes standard. Support one year. Recommendation becomes new threshold.
- If a State has a minimum, that would supersede this requirement.
- Will small providers fall under State educational regulations?
 - When a trainer is compensated, they may be subject to State jurisdiction



- Howard Stone, Economist, FMCSA: Yes, this is based on compensation.
- This would grandfather in those who are already trainers. Would need a year of experience if not yet a trainer.
- FMCSA should solicit comment on the regarding whether this requirement would affect the applicability of State laws relating to instructors.
- Committee acceptance is conditioned on the assumption that these instructor requirements would not affect whether commercial motor vehicle (CMV) training providers are subject to State laws.

Stranded Students

Discussion Points

What happens to the student who has not yet graduated when a training provider is removed from the registry/loses its license?

- Is this an issue to be worked out by this group or will it be left for students to work out with training providers?
- There is precedence for requirement of a surety bond.
- This will just ramp up the cost for providers.
- The training cycle is quick enough that if a school loses its license most students will have graduated.
- **Public comment**, Don Lefevre: Most school already post surety bonds for the States in which they are licensed.
- Does not need to be considered within the scope of this rule. It is mostly of a consumer protection issues.
- Community colleges are unlikely to lose a license; this is more of an issue for private providers.

Conclusion

Facilitator called for a vote to leave this issue to schools and students to work out—passed unanimously.

3. Proposal for Minimum Hours for Option B--Peter Kurdock, Director, Regulatory Affairs, AHAS (This item was added to the agenda)

Presentation

The original NPRM was in the neighborhood of 40-50 hours, which can be broken down. This is combined road and range time. This number is based on conversations with industry carriers. This number of hours ensures significant exposure to actual experiences that will improve a driver's ability to avoid a crash. It is credible without going overboard or imposing unreasonable costs.

Discussion Points

- What would be the documentation? Trip sheets? Written into rule?
 - The requirement must be written into the regulation. When add hours to sheet, that is great. But could simply be an hours requirement in the rule without trip sheet. Their training, however, must be credible.
- Would consider having a minimum average depending on what that number is.
- 40-50 is too high.



- Suggest 20 on the range and 8-12 on road hours.
- School buses will be an exception.
 - BTW training is an average of 20 for school buses.
 - Massachusetts has 32 hours BTW for school buses. This was implemented in response to 2007 NPRM. There was outcry, but it has worked. There are fewer accidents; the quality of the driver was improved.
 - There cannot be just one number for all classes and categories; therefore, there would have to be numbers for Class A, B, and endorsements.
- Proposal from advocates (negotiating position): 20 hours total BTW, minimum of 8-12 hours on road.

Conclusion

Over lunch, the committee will think about what the minimum hours should be for an average student for range or road, below which training is not credible.

4. Discussion and vote on other unresolved issues ELD definition (Annex 10) and compliance date

Discussion Points

- Definition: In the first sentence, why knowledge and/or skills test and not just skills test?
 - Answer is that for hazardous material (HM) endorsement only a knowledge test is required - - not a skills test.
- Compliance date of three years: Is this a restriction of the regulatory process or a choice? If a choice, why not fast-tracked?
 - Do not want to fast track but end up nonetheless with a paper-based system. Need enough time to ensure electronic system is set up.
 - Could it be minimum time or when the system is uniformly across States ready for electronic submission?
 - Typically, when close to deadline, FMCSA works closely with States to be sure they are ready. If States are not ready, then make decision whether or not compliance date must be moved.
 - It is the deadline that drives the State agencies, not the other way around.
 - Could say rule becomes effective X amount of time after FMCSA certifies that States are ready for electronic system.
 - The regulatory text refers to electronic submission process. The option for paper is not referenced.
 - Just went through this with CDL permit year. Allowed three years, extended one year, still have jurisdictions with July 8th pending and may not be ready. Support a fast track position in anticipation that it will be extended for a year.
 - Selden Fritschner, Chief, CDL Enforcement Division, FMCSA: There is a relationship for the registry to be developed and Commercial Driver's License Information System (CDLIS). We provide a year to do the programming and get the specs out. Then States have two years to get ready. That is the reason for three years. A year for CDLIS and registry to talk, then two



years for States. Two is not reasonable or a motivation for States to comply. If States are passing laws they need a year of preparation.

- Want to make clear that this will be ready for electronic submission. Request for it to be written into the document.
 - The text does not provide for a paper process. Instead, the intent is for electronic submission of a training certificate.
 - FMCSA can commit to doing this electronically.

Conclusion

Facilitator called for a vote on the ELD definition—passed unanimously, with the caveat that it will be modified as appropriate in relation to what is decided for the refresher course.

Facilitator called for a vote for rule to take effect three years after that date of publication in the Federal Register of the final rule—passed unanimously.

5. Final discussion and votes on Core Curriculum (Class A and B) (Annex 1)

Presentation

Outline of changes made is presented. There is a version control problem, so some of the changes do not appear in the document presented on the screen during the meeting. Those discussion points referring to such changes made to the latest document were modified to be reflected in the document on the screen. The latest version covers all prior committee issues. All applicable changes made to Class A will be carried into Class B.

Class A

Discussion Points

- Hours of service as it relates to road still references 49 CFR part 395. Needs to be “regulatory requirements as applicable to the trainee” in order to account for school buses. This is in theory, but not in road in both A and B.
 - This may be in the latest version.
- Objection to including reference to North American Fatigue Management Program website. This is irrelevant. There are no references anywhere else. Let schools decide where to get their references.
 - This is a comprehensive reference created by industry and government experts. It is free of charge.
 - FMCSA said it was not going to write the curriculum. Language about specific medical issues was cut out.
 - If this reference is in here it will be the reference point used.
 - Language does not say it is required to be used.
 - Facilitator asks if anyone will vote against chapter if site is left in, no one answers. Issue is dropped.



- “Rest areas” are added into pre a post-trip inspection section.
- Trainer commentary while driving needs to be reinforced as a requirement. It is crucial.
 - Request to add language.
 - Have not been prescriptive thus far as how curriculum should be delivered. It is a viable option, but is not done anywhere else on the curriculum.
 - To address this point, the following language is added under the Road header: “The trainer must engage in active two-way communication with the trainee during all active training sessions and evaluate the driving competence of the trainee during all behind-the-wheel (BTW) training.”
 - This language will also carry over to Class B.
 - *Facilitator called for a vote on this updated language—passed unanimously.*
- Drug and alcohol: Language is modified to account for different types of required training across modes.
 - **Public comment**, Andrea Wohleber, TTD, AFL-CIO: There are different types of drug and alcohol training for railroad, transit, etc. This should be reflected.
 - Existing regulatory requirements address drug and alcohol use. This section could be deleted and nothing would change.
 - Rather than single any regulation out, could say “all applicable.”
 - Include language so that trainees are aware that there are different types of training.
 - This will be mirrored in the Class B curriculum.
 - *Facilitator called for a vote on this updated language—passed unanimously.*
- Note that any changes suggested by workgroup that did not appear on the version presented at the meeting will be covered in the final document.

***Note that there was a brief pause during this discussion for a thank you and visit from T.F. Scott Darling, III, Chief Counsel, FMCSA.*

Class B

Discussion Points

- Changes made to Class A wellness section need to be reflected in Class B.
 - Could be a version problem. This problem is noted and will be addressed.
- This discussion is tabled until tomorrow when a more accurate version can be presented.

Conclusion

Facilitator called for a vote to adopt the Class A Core Curriculum—passed unanimously.

6. Final discussion and votes on:

A) Passenger Bus Endorsement Curriculum (Annex 2)



This document has been cleaned up and set up in a more logical order. “Post-accident” has been changed to “post-crash.” More language has been added regarding disabled drivers. A section has been added for idling.

Discussion points

- Request to add “as applicable” for passenger seat belts, as not all school buses have passenger seat belts.
- Minor grammatical errors are corrected.

Conclusion

Facilitator called for a vote to adopt the Passenger Bus Endorsement Curriculum —passed unanimously.

B) School Bus Endorsement Curriculum (Annex 3)

Brief description of post-accident procedures was modified.

Discussion points

- “Post-accident” is changed to “post-crash.”
- Minor grammatical errors are corrected.

Conclusion

Facilitator called for a vote to adopt the School Bus Endorsement Curriculum —passed unanimously

C) Refresher Course Curriculum (Annex 5)

Presentation

Will follow the training module crafted by Bob Tershak, removing any material that is not reflected in the ELDT core curriculum. Changes made since last workgroup meeting were reviewed.

Discussion Points

- Is there a version control problem? There are items, i.e. no zone strategies, which should have been taken out.
- Driver fatigue and wellness: “wellness” is changed to “illness.”
- This will be further discussed tomorrow when the correct version, including new changes and historic changes, can be reviewed by all.

7. Proposal of Ideas for Level of Effort—Ken Presley, Vice President, Industry Operations, Chief Operating Officer, UMA and Carl Spatocco, Regional Vice-President, Educational Affiliates, Commercial Vehicle Training Association (This item was added to the agenda)

Presentation: Ken Presley

- Concept of credit hours associated with minimum credit hours needed to graduate from program.
- I.e., on average it takes two hours to teach parallel parking, so credit hour is two hours. If trainee mastered in one hour or four hours, will still be two hours of credit.
- Provides measurable units and competency to move on if a trainee can master more quickly.



- Would need to be credible in terms of the number of credit hours for each unit.
 - This is a lot of work for this stage of the process.
 - This work has been done unofficially and totaled close to 20 hours. This does not account for the total hours that it takes a trainee to initially learn a skill.
 - The proposal does not include overall credit hours for range or road. That would need to be developed.
 - In the education world, when you use the nomenclature of “credit hours,” it means something very specific. It is a slippery slope.
 - Could change name to “units” or a different term.

Presentation: Carl Spatocco

- Committee has agreed on trip sheet and five repetitions for skills. What remains is the difference between a 40 hour and 0 hours demand.
- Proposal: Adopt, as voted on, the trip sheet with the five repetitions of competency and, to appease difference in hours demands, require a minimum average of 20 hours per student to accomplish trip sheet.
 - Is 20 a total of range and road?
 - It is BTW. That is the calculation of performing the range and road performances on the trip sheet. Have not added in the pre-training. Trainees will have to spend considerable time learning how to perform these skills before testing them for trip sheet.
 - Trainees must have flexibility to learn at their own pace. That is why it is an average.

Discussion Points

- ATA’s position is not 0 hours, but that hours are unrelated to performance and is very supportive of the trip sheet idea, especially because it is auditable. Not having a set number of hours ultimately leaves it to FMCSA’s discretion to choose a number. If this group chooses a number and it is wrong it will be extremely hard to change.
 - Are there any average hours numbers for the worst, average, or above average students?
 - Some students never graduate. They may test on their own, but if the training providers do not feel the driver is ever ready, they never test their skills.
 - Do not have hours for answers for other categories.
- Providing an average number is a problem because right now there is no core curriculum. Training corresponds to when a trainer thinks a student is ready to take the CDL exam. Different providers have different definitions of “ready.”
- Survey Monkey poll of responses related to hours for curriculum showed:
 - No difference between time spent on current curriculum and this new curriculum, so little burden will be added to a reputable school.
 - There was a range of hours. Road portion was a low of 10 and a high of 100. At high end were a lot of community and technical colleges. For financial aid reasons, they offer more than the essential hours from a safety standpoint. If those are taken out of data pool, there was a median of 20 range hours and 20 road hours. The standard deviation was 15.
 - The vast majority of poll answers were teaching more than 20 hours. This is just a reference/data point.



- Concern that once hours are established, they become a number that can only rise. Could/would FMCSA agree, absent congressional direction, that the agreed upon number will remain undisturbed for X amount of time?
 - Yes, but after several years, FMCSA will collect data to verify whether or not the number is effective. After this, if determined ineffective, the Agency can take action as needed.
- The certification eligibility requirements list calls for a road test be administered to assess efficiency. Would this be in addition to master trip sheet? Or has the trip sheet become the road test?
 - When originally drafting, road sheet was not part of the issue. If can demonstrate a skill five times, that is the test. The trainer will be able to assess proficiency.
- What is required for bus and motorcoach is different for some skills. Propose that some categories changed to reflect this, perhaps a lower number than five for this class.
 - Agreement that school bus is different in types of training required.
 - A special circumstance for school buses could create a “back door” to Class B.
 - Should there be different standards for Class A and Class B?
 - Class A is more difficult. This distinction could be made in the hours; a two-tier standard for Class A and B that will recognize this difference.
 - Could not see less than 20 for a Class B.
 - Children will be on these vehicles. Must think from this perspective when deciding Class B standards, which will affect school bus drivers. The consequences of mistakes are astounding.

Conclusion

Workgroup leaders will speak off the record about the hours issue. Committee will return tomorrow with ideas for crossing divide, including two-tier standards for Class A and Class B.

The meeting recessed at 4:00 p.m.

COMMITTEE ACTION – DAY 2

Call to Order

Richard Parker, Facilitator, called the meeting to order at 9:05 a.m.

8. Class A Curriculum Review (This item was a discussion extended from Day 1)

Discussion Points

- Railroad crossings: Suggestion to add reference to safety procedures at construction/work zones.
 - This is universally applicable; a descriptor is added to hazard perception section.
- Post-crash procedures: Suggestion to remove “skid measurements” as it is too specific.
 - This is classroom instruction; it would just be techniques for doing measurements.
 - A sentence or two on how to cover oneself as a driver is simple and invaluable for liability and keeping a CDL license.



- Skid measurements reference is not removed.
- Drugs and alcohol: Refers to training, but not testing.
 - Remove the word training and replace with “use,” to read: drug and alcohol use.
- Safe operating procedures, under visual search: Add reference to “rest areas.”
- Trip planning: Should not have to demonstrate Global Positioning System (GPS). The word “demonstrating” is removed.

Conclusion

Facilitator called for a vote on the Class A CDL Core Curriculum as it stands—passed unanimously.

9. Class B Curriculum Review (This item was a discussion extended from Day 1)

Discussion Points:

- Handling and documenting cargo: Suggestion to add “as applicable to HM cargo,” as school buses will not need to know this.
 - This is just theory; all Class B drivers must be aware of HM cargo. “As applicable” is not added.
- Coupling/uncoupling: Suggestion to add “as applicable”
 - School bus drivers can become Class B drivers. They could be coupling and need to understand procedures. Should be taught everything in basic core curriculum.
 - This appears on the range portion as well.
 - It was previously discussed and decided upon to leave this in the theory portion.
 - Do not need trailer at test, cannot demo in school bus.
 - Proposal: take out of range, put into theory, take out words “and demonstrate.”
 - If a particular industry has a coupling requirement, they will teach in finishing school.
 - Regulations will be checked, as this may be required to be taught.
 - 383.110 states that all drivers must have knowledge and skills necessarily to operate CMV safely. 383.111 lists all of the required knowledge areas. Combination vehicles must have knowledge of coupling/uncoupling a tractor to a semi-trailer (there is no reference to Class B). Do we assume this also includes Class B or just Class A because says tractor trailer?
 - **Public comment**, Bob Crescenzo, Lancer Insurance: Class B only pulls trailers of ten thousand pounds or less, so this does not apply and should not be trained.
 - Coupling/uncoupling section is removed from Class B curriculum.

Conclusion

Facilitator called for a vote on the Class B CDL Core Curriculum as it stands—passed unanimously.



10. Refresher Curriculum Review (This item was a discussion extended from Day 1)

Discussion Points

- “No zone strategies” reference is deleted, as it is not represented in Class A curriculum.
- Defensive driving: Replace current language in refresher curriculum with language from Class A safe operating procedures and advanced operating practices sections.
- Distraction: “Handheld” is removed from heading, as research shows the cognitive distraction for talking on a telephone is the same for both hands-free and handheld.
- Alcohol and controlled substances: Is this broad enough to cover railroads?
 - That was the purpose of including “or relevant sections” language.
 - There is no refresher requirement for drug and alcohol training regulations. It is a one-time event.
 - It is left in because refresher curriculum applies to individuals who have been inactive for some period of time.
- Road skills and performance: Subpart G reference in A is unnecessary.
 - This language appears elsewhere and implies training someone who already has CDL.
 - None of this belongs in curriculum, it is regulatory language.
 - This section is removed.
- CDLIS is going to have to reflect that a refresher course was taken.
- Who is going to perform this training?
 - Refresher course will be provided by a certified training provider from the registry.
 - **Public comment**, Liz Nadeau, Attorney, IUOE: What about the online piece? For the theory part we had talked about there being no expense to the worker because it would be available on the FMCSA website.
- Range: All items should include demonstration.
- Was the theory from the core curriculum replicated in refresher? Refresher should have limited theory and more demonstration.
 - A driver should not have to sit in classroom if they already know all basic concepts and materials.
 - There are no set time requirements, just topics that need be touched on.
- **Public comment**, Liz Nadeau: It looks like there will be significant costs for someone who is unemployed. Has anyone calculated the cost for a worker before they can regain their livelihood? What percentage of the total cost is this?
 - No one argued that there is no cost. There is cost. Still need to figure out how many people each year this would apply to. Cost estimates will have to be done as part of assessment.
- Most major companies require refresher courses for this type of person. There would be little additional new costs because this is already being done.



- It is a marketplace issue. Normally if instruction is a refresher, it will begin with an assessment to see where a driver is at and determine what to teach. Assessment determines price and it is pro-rated based on what tuition is for the program (daily total).
- Need refresher because someone who has been inactive for 'X' number of years is essentially an entry level driver, and so have the same cost benefit for training an entry-level driver.

Conclusion

Facilitator called for a vote on the Refresher Curriculum as it stands—passed unanimously.

11. Facilitator's Draft Term Sheet Revision to Reflect Agreements on Outstanding Issues (This item was added to the agenda)

Discussion

Class A proposal:

- Option C from Facilitator's Draft Term Sheet
 - Requiring a demonstration of a required skill five times on five separate days was not something we had agreed on. That is overly prescriptive.
 - The reason was because a driver could demonstrate something five times in a row one day but may not be able to do it the next day.
 - There is no objection to deleting the requirement for skills demonstration on five separate days.
- A and B skills do not need to require the same number of skill demonstrations. Three times for school bus and motorcoach would be sufficient because they are handled differently. Some skills are much easier, like taking a curve at highway speeds.
- While this form is agreeable, it depends on whether options A or B come into play. If A, five repetitions may be fine, but if B it is hours options, four repetitions may suffice.

Facilitator called for a straw poll on trip sheet—all in favor, except for Jim Edwards, who is opposed.

- Moving forward it would be helpful to uncouple these issues. There is still a balancing act if two options are in play.
- Suggestion for either performance-based with form or hours-based without form.
- For option C, by nature of what is on the trip sheet, there is a minimum number of hours already built in. The only question is how many hours it takes to accomplish what is on the trip sheet. That is a starting point. It is close to 20 hours.
- Option C cannot be supported by safety if there is no hours requirement.
- Almost have a committee agreement regarding road trips and hours on range. Everyone liked the concept of the trip sheet. The proposal is for 8-12 road trips (each 50 minutes or more in length), 20 hours BTW, and the availability of the trip sheet as a tool/recommended practice (as opposed to mandate).
 - Right now we are showing no faith in FMCSA, who is tasked with determining who is in or who is out of the registry. If there is no system for determining competency, a provider will not be approved.



- Those who want hours have no expertise in training. They want hours because they think the rule is laughable without hours. Those with expertise in training will go to hours if necessary, but believe that what really works is performance. We should regulate based on data and the experts, which favor performance. Hours does not bring anything to the table except extra cost.
 - How much training is usually necessary before a driver goes on an 8-10 hour long trip?
 - Usually a trip of that length would not happen until at least the fourth trip out.
 - If that is true then a driver would have already met the 20-hour requirement. The first day of learning and getting the vehicle to move without stalling is already almost 50 minutes.
 - Another concern is that hours is a number that would change. A term sheet is needed that provides that the committee would waive the ability to challenge the number chosen in this rule until FMCSA comes out with a study of five years' worth of data on the results of the new rule.
 - There is conceptual agreement, TBD based on written statement.

Facilitator called for a straw poll on a Class A requirements proposal of 20 hours on range and 10 trips of no less than 50 minutes or 10 hours with the trip sheet as a guide—all are in favor, except Boyd Stephenson, who abstains.

Class B proposal:

- The difference in Classes A and B is on the range. This time could be a third or half the time as it is for B. Proposal for Class B to require five hours on the range and 10 hours on the road, given no shifting, articulation, or tractor trailer.
- Require hours, as opposed to trips, because it is a different scenario.
- There are extraneous requirements: docking, backing maneuvers, etc. Can a driver get that done in five hours?
 - They have to be prepped to take the test. This is a minimum.
 - Committee is open to a difference, but would like to think more about how much.
- Proposal for 5 hours range and 10 hours road with recommended trip sheets.
 - Because of variety of vehicle types under Class B, some may need more time than others on range. Proposal to amend to 15 hours range or road to make more flexible.
 - Can create more challenge and diversity on the range.
 - Must be guarantee that there is some time on the road.
 - Could say minimum of 5 on the road.
- Why not 20 hours?
 - With school bus the range of hours is 10-32. 15 is already raising the 10 hours standard and raising the bar for safety. If the requirement becomes greater, more buses come off the road and there is a net decrease in safety.
 - 5 additional hours in training does not take any bus off the road.
 - Could also have 15 total hours and raise the road to seven or eight. Eight is a full day.



Facilitator calls for straw poll on Class B requirement for a minimum of 15 academic hours of BTW (range and road driving), with a minimum of 7 hours of road driving--All in favor, except Brian Sherlock, who is opposed. For initial vote Kevin Lewis was absent. He later returned and voted "aye."

Amend Class A from 10 hours to 10 hours with multiple trips?

- Must account for small providers. How do you define a trip? You may be out on the road for many days.
 - Each trip is one outing. Should be repeated exposures.
 - Not helping everyone come together towards agreement when this kind of detail is added.
 - Did anyone in the group want to be able to do one 10 hour session?
 - **Public comment**, John Frey, Werner Enterprises: The certification document ensures that the provider will have to provide satisfactory evidence of training. If there is an issue it is covered.
 - From standpoint of enforcement for purpose of auditing – there no teeth without enforcement. It is difficult to audit without specificity. Without a trip sheet how will this be evaluated by enforcement personnel?
 - Instead of trips require more than one calendar day.
 - Cannot make a rule that will cover every kind of situation. Proposal to only require 10 hours of road driving.
 - Applicant still has to hold permit for 14 days before testing. If they do all 10 hours in one day, they probably are not going to pass the licensing exam.
 - If it reads multiple days, you are planting the seed for corruption.

Minimum qualifications for instructors

- In the case of online training for theory, it can be written by someone with qualifications, but it is not delivered by that person, it is passive.
 - To address remove the word "classroom."
 - Need to certify online course was prepared by someone with those qualifications.
- **Public Comment**, Don Lefevé: Consider requiring qualifications of the State where recipient is taking class. But how do you validate that?
 - Every time an online course approved, it must show the State that it satisfies requirements. That is standard operating procedures.
 - The law applied is based on where the consumer resides.
 - That is what the Department of Education does. A class must be approved by State rules that the student is in, even if delivering from afar. Does not mean you have to do that here.
 - This issue is not fundamental. Will defer to FMCSA on treatment of State jurisdiction regarding online training.

Refresher Course Training

- Propose to delete first clause and begin with "The ELDTAC agrees that."
- Note that the committee did not vote to adopt refresher course training requirement formally. The committee has voted on how long a lapse needs to be in order to require refresher training and what that training should look like. Never a vote on whether there should be training at all.



- MAP-21 does not say anything about a refresher course. In that principle alone, it is not within the purview of the committee to write a refresher course. This is not what the committee was tasked with doing.
 - This group has jurisdiction because the refresher course would apply to drivers who have not had a CDL for four years or longer—in essence they are entry-level drivers.
 - Without a refresher course, lapsed drivers would have to go back to the State licensing agency and take the CDL skills test again. They may also have to redo all of ELDT.
- As it stands, without a refresher course the ELDT definition would require lapsed drivers to retake all of ELDT.
- Will discuss definition first and then return to refresher conversation.

12. Discussion and Vote on Eligibility Requirements for Institutional Training Providers (Annex 6)

Discussion Points

- For sake of clarity, request to change heading from “in-house or for-hire” to something else.
- Under required documentation for tests, added “Records of instructor observation of performance of skills required to be demonstrated by the FMCSA curriculum”
 - If these are required records, do we need to discuss how long they need to be retained?
 - Add language “Record required by this section shall be retained for X years.”
 - There are some state licensing requirements that are longer than 3 years.
 - Proposal records retained for one year (will not preempt State law).
 - Alan Strasser, Regulatory Attorney, FMCSA: For the five year post-implementation study requested earlier, it will be hard to use a year of data.
 - This is a different set of data.
 - FMCSA will not be able to properly evaluate this in one year
 - Change to three years.
 - If this is not going to affect vote, proposal to leave number of years to FMCSA.
 - All agree that a minimum number of years for retaining records requirement should be removed and will be determined by FMCSA.

Facilitator called for a vote on Eligibility Requirements for In-House or For-Hire Driver Training Providers as it stands, with caveat that the heading for this section may be changed —passed unanimously.

13. Eligibility Requirements for Small Training Providers (Annex 7)

- As far as affecting union training programs that are three people or less a year, is there any way to incorporate them into this?
 - They are covered here.
 - Suggestion to rename title to call out three or fewer drivers requirement.

Facilitator called for a vote on Eligibility Requirements for In-House or For-Hire Driver Training Providers as it stands, with caveat that the heading for this section may be changed —passed unanimously.



14. Training Provider Identification Form (Annex 8)

Discussion Points

- This will be altered to conform to nomenclature determined in Annexes 6 and 7.
- **Public comment**, Don Lefevre: Our preference is a breakdown between small and large schools, carriers, union/joint management training programs, and other. Just have boxes to check.
- **Public comment**, Liz Nadeau: Joint Labor Management Training Program's do not train their own employees. Adjust language.
- For data analysis FMCSA wants to see categories.
- **Public comment**, Don Lefevre: Call for-hire training providers a school.

Facilitator called for a vote on the Training Provider Identification Form as it stands, with caveat that wording may be tweaked —passed unanimously.

15. Discussion and Vote on National Training Registry Regulatory Text (Annex 9)

Discussion Points

This is a term sheet, only talking about concepts, not wordsmithing.

- Request to change language for reason for removal five: Less than 50% of those who complete the provider's training successfully obtain a CDL or endorsement for which they received training.
 - In the case of a small provider, could have two people and one fail. Percentage is skewed.
 - Change to in the case of institutional providers.
 - 51 percent pass rate is not a meaningful standard.
 - There is an issue with the consistency with CDL examiners, cannot put it all the blame for pass rate on the training provider.
 - This is just one of possible reasons for removal. Not a safe harbor.
 - Over what period of time is that percent? By leaving it open can bring in someone who brings in statistics when needed.
 - Change "reasons of removal" to "the factors to be considered in removal decisions."
 - Change to reason five to "the rate at which those that complete the providers' training successfully obtain a CDL."

Facilitator called for a vote on the National Training Registry Regulatory Text as it stands—passed unanimously.



16. Annex 10: Updated Definition

Presentation Alan Strasser, FMCSA

As it stands, this makes anyone required to take CDL over again subject to this rule. The effect of a refresher course is relief in having to take entire ELDT over again. It is a policy call to define ELDT in this way. It is within the jurisdiction of this group to decide whether or not to include former CDL holders or the refresher training requirement in the definition.

Discussion points

Section C added “except as provided,” which defers to D, which is a new section.

- This could be done in half a day, refresher is not huge requirement.
- There could be times when a person needs more than one day to refresh on backing skills.
- Are we removing refresher training in order to require everyone to go through full training? Or because ELDT never expires?
 - Once you complete ELDT, you should never have to do it again.

Facilitator called for a vote on the ELDT definition as it stands—All are in favor except, Jim Edwards, Scott Grenerth, Charles Hood, Bob Ramsdell, and Bryan Spoon, who are opposed.

Proposal to remove requirement for lapsed drivers to take refresher course.

- If a driver has license revoked or punitive type measure, then he/she does need refresher training. Not just for lapse/expiration. There is cause and so need for mitigation.
- If that kind of revocation is serious, should the driver have to go through the entire training again instead of refresher?
- Some drivers lose license for medical or child support-related reasons, not because of inability to drive.
- Suspended is a tricky term because suspensions can be 30 days. Needs to be more clearly defined so as to not apply to these other categories.
 - “Suspended” is removed.
- If a license is revoked by the State of issuance for highway safety-related reasons, it is a serious safety issue. Would need entire training. This is a different scope.
 - “For highway safety-related reasons” is added after “disqualified by the State of issuance.”
- What about someone who leaves industry for 10 years, then comes back.
 - Carriers would know to put that person through sufficient training before back on the road.
 - If a driver wants to get into an industry they have been out of in a while, the onus is on them to be prepared.
- If approached from this angle, retaking ELDT is punishment for having a license revoked, how would a refresher course fix wrong behavior? That has nothing to do with training.



- FMCSA questioned the costs and benefits of this small subset of people going through training to make them safer.
 - How can training fix a DUI?
 - OMB warned to not make this rule any more complicated in detail than the data can support. That paragraph will not fly.
- Compromise: This subset would take the refresher course instead of ELDT all over again.

Conclusion

The revised definition states that “a person whose CDL was revoked, canceled, or disqualified by the State of issuance for highway safety-related reasons must complete the refresher training requirements of this subpart.”

Facilitator called for a vote on the FMCSA Updated Definitions for ELDT as it stands—passed unanimously.

17. Final Discussion and Vote on Term Sheet (as amended)

Discussion

There is a request for two straw polls:

1. The concept of competency: Do you support the idea of a competency requirement, demonstration of competency requirement in this package?
2. 2. Do we support the concept of minimum hours?
 - Compromise: This subset would take the refresher course instead of ELDT all over again.
 - The purpose of the request for vote one is to show that ATA supports a competency-based standard.
 - **Public comment**, Don Lefevre: We did get tentative agreement on 20 hours for range and 10 hours for road, however I want to throw out there whether group would consider: 10 hours range, 10 hours road, and 10 flex, which could be applied to road and range. This is 30 hours. Not locked in solely on range.
 - The text is amended to reflect this.
 - Suzanne O'Malley, Office of Chief Counsel, FMCSA: Could say 30 BTW training hours, with minimum 10 hours range, minimum 10 hours road (to be consistent with class B wording).
 - **Public comment**, Don Lefevre: The hour must be defined as 50 minutes.

Facilitator called for a vote on the FMCSA Updated Definitions for ELDT as it stands—passed unanimously.

Conclusion

Facilitator called for a straw poll on whether Class A and B proposal text is ready to be voted on—passed unanimously.



Class A Vote: Facilitator called for a vote on Class A proposal—all in favor, except Jim Edwards and Boyd Stephenson, who are opposed. The motion carries.

Class B Vote: Facilitator called for a vote on Class B proposal—all in favor, except Brian Sherlock and Boyd Stephenson, who are opposed. The motion carries.

Vote on Final Term Sheet Package: Facilitator called for a vote on final term sheet package—passed unanimously.

Committee members will be sent final versions to sign. What was produced this day will be drafted to be reviewed by FMCSA. Dissenters will send facilitator short narrative document outlining reasons for dissent, to be included in report.

PUBLIC COMMENTS

Comments were heard throughout the meeting from those in the public gallery and entered above under the relevant discussions.

ADJOURNMENT

The meeting was adjourned at 3:33 p.m. on Friday, May 29, 2015.

We hereby certify that the foregoing minutes are accurate, to the best of our knowledge.

//signed//

Richard Parker, Facilitator

//signed//

Larry W. Minor
Designated Federal Officer, FMCSA