




U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Memorandum

Subject: **ACTION:** Fiscal Year 2013 Commercial Vehicle Safety Plan
Date: April 9, 2012

From: 
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Associate Administrator
for Enforcement and Program Delivery
Reply to MC-ESS
Attn of:

To: Associate Administrator for Field Operations
Field Administrators
Service Center Directors
Division Administrators
State Program Managers

BACKGROUND

The Federal Motor Carrier Safety Administration (FMCSA) supports U. S. Department of Transportation Secretary Ray LaHood's top priority of improving the safety of transportation in America. From banning texting and hand-held cellular phone use by commercial motor vehicle (CMV) operators to revising hours of service regulations, FMCSA continues to take great strides in support of his vision. To support the Secretary's goal of reducing the roadway fatality rate per 100 million vehicle miles traveled (VMT) to 1.03 in calendar year (CY) 2013, FMCSA has set a CY 2013 fatality reduction goal to reduce roadway fatalities involving large trucks and buses to 0.114 per 100 million VMT.

To achieve this goal, FMCSA must continue to develop and implement innovative CMV safety strategies. For 29 years, the Motor Carrier Safety Assistance Program (MCSAP) has promoted consistent, uniform, and efficient State safety programs by providing funding for driver and vehicle inspections, traffic enforcement, carrier reviews, public education and awareness, and data collection. Through these activities, participants in MCSAP can prevent crashes by ensuring the highest safety standards for all entities that control or influence the operation of CMVs and by taking action against individuals or entities that do not meet these standards.

PURPOSE

This memorandum provides important information on the Agency's top four Fiscal Year (FY) 2013 Commercial Vehicle Safety Plan (CVSP) priorities, which are:

1. Innovative enforcement approaches that address State-specific crash causation factors to supplement traditional enforcement activities;
2. Compliance, Safety, Accountability program implementation;
3. Improvement in data collection and quality; and
4. Motorcoach enforcement.

Attachments to this memorandum include additional program updates and information to assist in developing the FY 2013 CVSPs. Division Administrators should share this memorandum with their State MCSAP partners immediately.

FY 2013 Proposed Funding Levels

While the President has submitted an FY 2013 budget that coordinates existing grant programs under a single Compliance, Safety, and Accountability (CS&A) umbrella program totaling \$264,000,000, it is contingent upon a multi-year surface transportation authorization bill. The below numbers reflect the grant amounts under existing authority from Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109–59. Unless FMCSA is given new authorization, the FY 2013 grant programs are expected to remain similar to FY 2012. The FMCSA will inform its grants community if new authorizing legislation changes its grant programs for FY 2013.

In FY 2013, FMCSA will continue to award MCSAP Basic grants according to the processes and formulas established in 49 CFR Part 350. This includes MCSAP Incentive funds to States that show improvement in any of the five categories identified in 49 CFR 350.327. The FMCSA will provide MCSAP Basic and Incentive funds to States as 80 percent Federal funding, requiring a 20 percent grantee match. Attachment 1 provides the estimated FY 2012 MCSAP Basic award amounts (pending final availability of funds). These amounts currently serve as the best indicator of estimated FY 2013 Basic funds. However, this amount will be updated according to the final appropriation and authorization, and States must adjust their grant program budgets accordingly at that time. This estimated distribution does not include MCSAP Incentive funding calculations.

In FY 2013, FMCSA will continue to award High Priority, New Entrant, and Border Enforcement grants as described later in this document.

FY 2013 COMMERCIAL VEHICLE SAFETY PLAN EMPHASIS AREAS

Crash Causation Factors

To ensure maximum operational effectiveness and efficiency, States must make resource decisions based on the sound statistical analysis of the highest quality data possible. To support FMCSA's mission of saving lives and reducing injuries by preventing large truck and bus crashes, a State may need to identify and focus on localized problem areas that complement its traditional statewide program activities. Division Administrators should encourage their State to consider existing and emerging areas of crash causation within its jurisdiction. This includes identifying and targeting the contributing factors that lead to crashes such as unsafe driving behaviors (speeding, following too closely, unsafe lane changes, reckless driving, and impaired driving) and distracted driving (texting and hand held cell phone use). This may also include enhanced enforcement in high crash corridors, during high crash hours, or in high risk areas such as on rural roads or in highway work zones. The CVSP Toolkit is available for States to research the characteristics of crashes and assist in determining common crash causalities. Please visit: <https://ai.fmcsa.dot.gov/CVSP/login.asp>.

CSA Program Implementation

The CSA program provides the roadmap for ensuring that everyone engaged in CMV operations maintains high safety standards through the use of seven Behavioral Analysis and Safety Improvement Categories (BASICS). The CSA program gives State and Federal personnel the safety performance information needed to effectively identify high risk and poor performing motor carriers to engage in intervention activities. The CSA program uses intervention activities that include warning letters, comprehensive on-site investigations, and focused on-site investigations.

For FY 2013, CVSPs from States that conduct interstate carrier reviews must reflect utilization of the CSA interventions to the maximum extent possible. Those States that do not conduct carrier reviews or that cannot implement CSA must include in the CVSP an explanation of the obstacles to both and how they can be overcome. While State-specific objectives established in previous years' CVSPs may continue in FY 2013, specific strategies and monitoring plans must be updated to reflect the full range of CSA intervention strategies within the State. The Compliance Reviews National Program Element section of the FY 2013 CVSP has been updated to allow States to address, where applicable, the implementation of the new CSA program interventions.

Specifically, Table 4 of the CVSP Template has been expanded to collect State projections of the number of CSA program investigations and other reviews. Training and implementation of CSA offsite investigations may not be fully completed for all States during FY 2013. Therefore, at this time, States that have not yet implemented off-site investigations should include projections of CSA investigative activity for interstate carriers in the "onsite focused" and "onsite comprehensive" categories. Additionally, some States may still be conducting traditional motor carrier safety compliance reviews of intrastate motor carriers. Therefore, the CVSP may contain projections for both CSA investigations and compliance reviews of intrastate carriers. Division Administrators should encourage each State to consider how it will convert to the CSA model for intrastate carriers in FY 2013. States that have implemented the full set of CSA interventions (original CSA test States and Alaska) should continue to use the full range of the Table 4 updates.

With limited historic data, FMCSA recognizes that CSA program intervention projections for States may differ from actual performance. However, differences between CVSP projections and actual implementation experience should be captured in subsequent quarterly performance progress reports. Additionally, although FMCSA's National Training Center (NTC) provides CSA program implementation training to State MCSAP agencies, Division Administrators should direct States to prepare their FY 2013 CVSP budgets to allow for in-State or regional training of their safety investigators and managers on the CSA program enforcement model, Safety Measurement System, and the remaining intervention processes.

If your State needs additional information about the implementation of the CSA program, please refer it to: <http://csa.fmcsa.dot.gov/>.

Improvement in Data Collection and Quality

To intervene and correct problems before a crash happens, the quality and consistency of roadside data are critical. Division Administrators should encourage all MCSAP lead agencies to examine the quality and uniformity of the data for which they are responsible and to identify ways to improve (or maintain existing high standards) in these four areas:

- Documenting roadside inspection and violation data consistently across the State;
- Standardizing processes for Requests for Data Reviews (RDR);
- Increasing inspector awareness of the high-level goals of the inspection program; and
- Examining inspection selection processes and validating, where necessary.

The FMCSA, with support from its State partners, has developed a “DataQs User’s Guide and Best Practices Manual” (Guide) for responders to RDRs. The Guide offers best practice recommendations and operational procedures. The FMCSA strongly encourages Federal and State analysts to use the Guide as a resource in resolving RDRs. It includes topics such as:

- Timeframes for responses;
- Documents required to corroborate that RDRs are valid;
- Sources available to validate data;
- Recommended “due process” procedures;
- Factors to consider in assembling a DataQs Council; and
- Sample case studies.

The Guide is intended to assist State DataQs analysts to carefully review and consider the factors that are unique to each DataQs RDR. The recommendations in the Guide are intended to support uniformity of the DataQs process across all States while still allowing each State to exercise discretion.

Every inspection and every safety-related violation found during an inspection, not just out-of-service violations, contributes to the respective carrier profiles in the Safety Measurement System. As a result, FMCSA has seen the volume of DataQs rise. A State’s capacity to handle these additional DataQs is critical to the success and integrity of the Agency’s compliance program. Therefore, Division Administrators must direct each State to address in its CVSP how it plans to handle the steadily increasing number of DataQs. Further, Division Administrators should advise States to consider and develop contingency plans to devote additional resources towards DataQs RDRs, including the temporary reassignment of personnel within the MCSAP unit, if necessary. Finally, each CVSP should include details on how the State plans to achieve good/green measures in all areas of the State Safety Data Quality (SSDQ) measurements. Please see: <http://ai.fmcsa.dot.gov/DataQuality/DataQuality.asp?redirect=overview.asp> for more information on how to achieve good/green measures.

Improving crash data collection is also an important emphasis area for FMCSA. Division Administrators should strongly encourage their State to increase its focus on projects, programs, and activities that will enhance the accuracy, speed and completeness of the collection of all FMCSA reportable large truck and bus crashes and hazardous materials incidents in all components of its records systems. These activities should address the nine measures plus the overriding performance indicator established for the SSDQ program. A State may have a

records system that is technically sound but hampered by State procedures, policies, laws, or legislation that precludes complete reporting to FMCSA. Division Administrators should strongly encourage their States to identify methods to address these barriers, work with FMCSA subject matter experts in accident data collection, and explore collaborative efforts between the various State agencies that will result in either maintaining existing high performance or improving the accuracy, completeness and timeliness of crash reporting.

For more information about the nine performance measures included on the SSDQ map, including FMCSA's recently revised Non-Fatal Crash Completeness measure (updated February 2012) please visit: <http://ai.fmcsa.dot.gov/DataQuality/methodology/default.aspx>

The USDOT Motorcoach Safety Action Plan

The USDOT Motorcoach Safety Action Plan (MSAP) describes Secretary LaHood's plan to improve the safety of motorcoach transportation for millions of Americans. The newest version of the MSAP is expected in the spring of 2012. To improve safety standards in passenger transportation, Division Administrators should direct their State to increase its emphasis on motorcoach safety in its FY 2013 CVSP. The CVSP must include a State-specific objective for conducting motorcoach origin/destination inspections and other safety initiatives focused on the motorcoach industry, including companies providing curbside intercity scheduled service. States should be advised that terminal inspections at a passenger carrier's facility are discouraged unless they can be conducted with a driver present and are not pre-arranged with the carrier. Pre-arrangement generally precludes the detection of violations that would be discovered during an unannounced origin/destination inspection and the results of pre-arranged inspections would reflect a less reliable indicator of the carrier's overall operational safety status.

States should also include motorcoach safety initiatives targeting unsafe driver behaviors such as speeding, following too closely, operating in violation of an out-of-service order, and hours of service violations. The FMCSA encourages safety enforcement and outreach through Statewide strike forces. Coordinated over a period of one to several weeks, a strike force might target specific motorcoach operations such as charter transportation to casinos, theme parks, sporting events, or other destinations. Statewide strike forces may be conducted separately or in conjunction with national or regional motorcoach strike force activities. All inspections of for-hire interstate motorcoach carriers should include verification of active Federal passenger carrier operating authority.

The FMCSA is aware that some States have only a limited number of CMV inspectors trained and certified to inspect passenger vehicles (i.e., motorcoaches). Division Administrators should encourage their State to consider the training and maintaining of certification of additional CMV inspection staff to conduct passenger vehicle inspections based upon the passenger carrier population within the State. Due to the varying sizes of State inspection programs and the availability of training classes through NTC, it may be necessary to consider coordinating this effort over several years.

In the spring of 2012, FMCSA will release updated policies regarding the inspection of passenger carrying CMVs, including scheduled inspections of motorcoaches.

FMCSA GRANT MANAGEMENT IMPROVEMENTS

The FMCSA is continuing several initiatives to improve its grant processes. The purposes of these initiatives are two-fold: 1) strengthen oversight and internal controls of the Agency's grants and 2) streamline, modernize, and make the grant processes more open and consistent. Given that over half of all FMCSA funding is provided to partners in the form of grants, the effective stewardship of these grants is a critical component in the Agency's ability to fulfill its mission. For FY 2013, the Agency is planning several improvements that are summarized below.

Creating the FMCSA Grants Management Office (GMO)

The purpose of the FMCSA GMO is to effectively award and manage grants/cooperative agreements to support the FMCSA mission and comply with grant-related policies and regulations. The GMO will act as the central, objective authority with no relationship to specific grants or grantees, thus allowing for a separation of duties between the GMO and Agency program staff to ensure internal controls. Further, this separation of duties will allow the GMO to focus exclusively on the planning, administrative, and financial aspects of grant programs while allowing grant program managers and FMCSA Field personnel to focus on the programmatic elements that ensure effective and measurable program outcomes. From a grantee perspective, the role of the GMO is designed to be transparent. The grantee relationships will continue to be maintained primarily by the current FMCSA field and headquarters grant program staff. However, FMCSA believes that centralizing expertise will also provide a better level of customer service to Federal personnel and, ultimately, the grantee.

Educating Grantees on their Roles and Responsibilities

The FMCSA developed a Grantee Grants Manual and presented it at the 2011 MCSAP Leadership Conference. This Grantee Grants Manual explains the various grantee functions at each stage of the grant life cycle and FMCSA expects to release version 2 in late spring 2012. Further, in early summer 2012, FMCSA will begin making grantee training available to all grant applicants during in-person training sessions and through recorded sessions that will be posted to the FMCSA website. The FMCSA expects that the information provided in these training sessions will provide applicants with a better understanding of the grant requirements expected by the Agency, how to best prepare documentation that meets these requirements, and how to better manage an effective grant program.

Continuous Improvement to FMCSA Grant Processing Timelines

While FMCSA has worked to improve the timeliness of grant awards, it still faces internal and external requirements that lead to a lengthy review and approval process. The FMCSA will continue to refine its internal review and approval processes based on new requirements and lessons learned in previous grant cycles. To assist with this, FMCSA will modify its FY 2013 grant cycle to include earlier deadlines and award timelines. The deadlines and award timelines for each grant program will be included in a Federal Register notice to be released no later than early June 2012. This notice will establish the individual application deadlines and timelines for all FY 2013 grant programs. Division Administrators should advise their State MCSAP agencies

(and participating agencies) to begin planning now in anticipation of these earlier application deadlines. While all CS&A discretionary grant programs discussed in this memorandum will have individual deadlines, none will be later than September 30, 2012. Other discretionary grant programs¹ not discussed in this memorandum will have individual deadlines also, but none will be later than October 31, 2012. The Federal Register notice will also provide prospective grant applicants with more information on the pre-award processing requirements for all discretionary grant programs. This will help establish reasonable expectations for award timelines once the application deadline has passed. In addition to the Federal Register notice, FMCSA will include deadlines and program specific information in the Notices of Funding Availability (NOFA) posted at www.grants.gov.

To ensure the timely review and award of all grants, applications must be submitted in accordance with the instructions in the NOFA and contain all required information and attachments. The FMCSA continues receiving a significant number of applications each year that do not meet the requirements in the NOFA. This includes a lack of critical program-related information such as quantifiable performance measures; improperly completed forms such as the budget, key contacts, and the Administrative Capabilities questionnaire; or required forms not submitted at all. Amending the application and clarifying information increases the amount of administrative time needed to process the applications and delays the Agency's ability to make timely grant awards. Division Administrators should direct all grant applicants to carefully review the NOFA to ensure that applications are complete and meet the necessary requirements. For MCSAP Basic grants, this includes the CVSP and Maintenance of Effort Templates, Budget, and Technical Review Panel (TRP) Checklist.

FY 2013 CVSP Processing

One way that FMCSA will improve the processing of FY 2013 CVSPs and ensure the timely release of grant funds is to no longer delay the entire award process waiting for the final submission of untimely CVSPs or the submission of necessary grant-related documents. The FMCSA will convene TRPs for the FY 2013 CVSPs in the second and third weeks of August 2012. While 49 CFR 350.205 permits a 30 day extension to the August 1 submission deadline for good cause, FMCSA strongly encourages States to dedicate the resources necessary to submit their application prior to the convening of the panels. CVSPs not submitted before the TRPs will be considered by the Agency through remote review as time permits.

Subsequent to those reviews, CVSPs will be returned to States if required documents are missing or incomplete, additional information is needed, or if the panel believes that changes or improvements are required. In the FY 2013 NOFA, FMCSA will establish a cutoff date for CVSPs and required documents that have been revised subsequent to the TRPs meeting. Those States that submit their revised CVSPs with all documents by this date will be included in the Agency's first round of FY 2013 awards. Any State that submits a revised CVSP/document after this deadline will be included in a second or subsequent round of FY 2013 funding as the Agency is able to process them. Therefore, Division Administrator should emphasize with their State the need to engage in planning and dedicating resources necessary for a timely submission

¹ Commercial Driver's License Program Improvement (CDLPI), Safety Data Improvement Program (SaDIP), Performance and Registration Information Systems Management (PRISM), Commercial Vehicle Information Systems and Networks (CVISN), and Commercial Motor Vehicle Operator Safety Training (CMV-OST) grants.

of the original CVSP by the August 1 deadline and a prompt revision and return of the CVSP, if requested by the TRP.

OTHER CS&A GRANTS

High Priority Grants

In FY 2013, FMCSA will award High Priority (HP) funds for safety initiatives such as high visibility CMV and non-CMV traffic enforcement, public awareness and education, special research efforts (if not funded by MCSAP Basic or Incentive funds), and particularly for innovative efforts that have a demonstrable potential for nationwide implementation. State MCSAP lead agencies identified by FMCSA as having an overall poor/red data quality rating must address their data quality problems in the CVSP. Failure to address data quality problems will be considered a significant negative factor when reviewing applications for other HP initiatives. The FMCSA will prioritize applications that contain innovative safety strategies for education and enforcement regarding the texting and hand-held cell phone prohibitions for CMV drivers; proposals that address innovative methods to combat distracted driving among CMV drivers; seat belt compliance; innovative enforcement activities for high crash corridors and high risk areas such as on rural roads and in highway work zones; and educational programs targeted at preventing teen involvement in CMV crashes. Division Administrators should advise interested applicants to carefully consult the NOFA for program requirements.

The FMCSA strongly encourages the participation of local law enforcement agencies in activities supported by both MCSAP Basic/Incentive and High Priority grants. Local law enforcement agencies applying for High Priority grants must demonstrate in the application how it meets the nine conditions specified in 49 CFR 350.329, including documenting coordination with the State MCSAP Lead Agency, in its application. Further, State MCSAP Lead Agencies will be given the opportunity to independently comment on HP applications submitted by local law enforcement agencies within its jurisdiction for FY 2013 HP grants. Feedback from the State MCSAP Lead Agencies is intended solely to prevent the duplication of efforts by multiple agencies; FMCSA will make the final funding decisions.

The FMCSA will also continue to consider FY 2013 HP applications to increase CMV and non-CMV traffic enforcement projects/programs such as Ticketing Aggressive Cars and Trucks (TACT). The TACT program includes high visibility messaging, targeted enforcement activities in selected high-risk traffic areas, and pre- and post-activity evaluation to measure reductions in crashes, fatalities and injuries caused by unsafe driving behaviors (e.g., unsafe lane changes, tailgating, speeding, etc.). The FMCSA will continue to fund TACT programs that include the three key components (communication, enforcement, and evaluation) to build awareness and educate passenger and CMV drivers about safe driving behaviors. For additional information about TACT, visit: <http://www.fmcsa.dot.gov/safety-security/tact/index.htm>

New Entrant Grants

In FY 2013, FMCSA will make grant funding available to support interstate New Entrant Safety Audit programs. Funds may be used for salaries and related expenses of employees performing interstate New Entrant audits, including training, and to perform other eligible activities that are

directly related to conducting safety audits. Interested agencies should be advised to consult the NOFA for further information on how FMCSA will consider past spending patterns, including the average cost per audit, and unexpended funds information as part of the application review. States should further consult SP-12-001-CE (Cost Eligibility for New Entrant Safety Assurance Program) for further information on the reimbursement of activities under a New Entrant grant.

Border Enforcement Grants (BEG)

In FY2013, FMCSA will make grant funding available to support safety initiatives that ensure motor carriers operating CMVs, especially passenger-carrying CMVs, entering the United States from a foreign country are in compliance with CMV safety standards and regulations, financial responsibility regulations, registration (i.e., operating authority), and driver qualification requirements of the United States.

Eligible BEG activities include increased inspections of motor carriers transporting property, passengers, and HM at the northern and southern borders or within corridors where there is a significant amount of international traffic based on state transportation statistics. Interested and eligible agencies should be directed to consult the NOFA for further information on program-specific goals for FY2013 and eligible activities.

STATE TRAINING AND ADMINISTRATION

The FMCSA NTC serves as the focal point for the development and delivery of motor carrier safety training to enhance the capabilities of participating State and local government officials. For FY 2013, States must continue to submit Schedule Intake Forms (SIF) online by going to: www.fmcsa.dot.gov/NTC/Security/Login. A separate SIF must be submitted online for each class requested. **Note that SIFs are not to be included in the CVSP.** If a State user needs to establish a user name/password they can contact NTC-State-Programs@dot.gov.

SIF's are due on a quarterly basis:

<u>SIF Due Date</u>	<u>Months of classes to be scheduled</u>
October 1	January, February, March
January 1	April, May, June
April 1	July, August, September
July 1	October, November, December

The NTC will not accept any requests that come in after the due dates listed above for classes in that period unless extenuating circumstances and an explanation are provided to NTC by the State through its FMCSA Division Office. Those classes will be handled on a case-by-case basis, and are subject to denial based on material and instructor availability.

A formal State Training Plan is no longer required to be included with the CVSP. Instead, for CVSP reporting purposes, a State only need to include the total number of classes anticipated to be requested during FY 2013, and the estimated total cost in its CVSP budget for its State training. No additional information will be required, as it will be gathered quarterly through the SIF process.

CONCLUSION

We thank the Division Offices and Service Centers for their dedication and continued hard work in support of MCSAP. Through this dedication and our strong partnership with the States, FMCSA will continue to move forward in improving our strategies and safety tools to achieve a greater reduction in the number and severity of CMV crashes.

For questions on any of the material contained in this memorandum, contact Brandon Poarch, Chief, State Programs Division, at 202-366-3030 or brandon.poarch@dot.gov.

Attachment 1: Estimated FY 2013 MCSAP Basic and Incentive Funding Distribution

Attachment 2: Supplemental Program Information

ATTACHMENT 1

FY 2012 MCSAP Basic Funding Distribution (estimated based final availability of funds)

State	MSCAP Basic Funding Allocation	State	MSCAP Basic Funding Allocation
Alabama	\$3,247,890	Montana	\$1,297,055
Alaska	\$683,540	Nebraska	\$1,974,891
American Samoa	\$350,000	Nevada	\$1,471,342
Arizona	\$3,168,661	New Hampshire	\$683,540
Arkansas	\$2,546,903	New Jersey	\$3,470,482
California	\$7,680,504	New Mexico	\$1,800,624
Colorado	\$2,824,578	New York	\$7,170,127
Connecticut	\$1,439,368	North Carolina	\$4,885,687
Delaware	\$683,540	North Dakota	\$1,386,778
District of Columbia	\$683,540	Northern Marianas	\$350,000
Florida	\$7,680,504	Ohio	\$5,934,410
Georgia	\$5,430,739	Oklahoma	\$3,222,522
Guam	\$350,000	Oregon	\$2,452,120
Hawaii	\$683,540	Pennsylvania	\$5,989,687
Idaho	\$1,352,789	Puerto Rico	\$1,182,375
Illinois	\$6,228,982	Rhode Island	\$683,540
Indiana	\$4,294,954	South Carolina	\$2,813,114
Iowa	\$2,756,316	South Dakota	\$681,257
Kansas	\$2,738,108	Tennessee	\$3,743,498
Kentucky	\$2,898,479	Texas	\$7,680,504
Louisiana	\$2,706,565	Utah	\$1,655,906
Maine	\$414,190	Vermont	\$683,540
Maryland	\$2,470,386	Virgin Islands	\$350,000
Massachusetts	\$2,459,593	Virginia	\$4,065,850
Michigan	\$4,853,160	Washington	\$3,235,231
Minnesota	\$3,587,590	West Virginia	\$1,221,318
Mississippi	\$2,367,698	Wisconsin	\$3,558,662
Missouri	\$4,170,639	Wyoming	\$953,184

Because of the uncertainty regarding a new surface transportation authorization bill, this table provides the estimated FY 2012 MCSAP Basic award amounts (pending final availability of funds). These amounts serve as the best indicator of estimated FY 2013 Basic funds. However, this amount will be updated according to the final appropriation and authorization, and States must adjust their grant program budgets accordingly at that time. This estimated distribution does not include MCSAP Incentive funding calculations.

ATTACHMENT 2: ADDITIONAL PROGRAM INFORMATION

Enforcement of Limiting the Use of Wireless Communication Devices (Texting) and Restricting the Use of Cellular Phones (Hand-held Mobile Phones)

In order to address dangers associated with distracted driving, the FMCSA and the Pipeline and Hazardous Materials Safety Administration (PHMSA) have published final rules that prohibit texting and restrict the use of hand-held mobile phones by CMV drivers that operate in interstate commerce and/or transport placardable quantities of hazardous materials in intrastate commerce.

The following final rules were published by FMCSA and PHMSA:

- FMCSA published, “Enforcement of Limiting the Use of Wireless Communication Devices.” (effective October 27, 2010)
- PHMSA published, “Hazardous Materials: Limiting the Use of Electronic Devices by Highway.” (effective March 30, 2011)
- FMCSA and PHMSA published, “Restricting the Use of Cellular Phones.” (effective January 3, 2012)

Drivers who fail to comply with these rules are subject to civil penalties and disqualification from operating CMVs in interstate commerce. These rules also amend the CDL regulations to add a conviction under State or local traffic laws or ordinances that prohibit texting and/or the use of hand-held mobile phones by CDL drivers while operating a CMV, including school bus drivers, to the list of disqualifying CDL offenses. Second convictions for violating a State or local law result in a 60 day disqualification; third or subsequent convictions result in a 120 day suspension. Similar changes were made to the driver disqualification regulations in 49 CFR Part 391.

States are highly encouraged to adopt and enforce the new texting and hand-held mobile phone regulations as soon as possible, but must adopt the new regulations no later than three years from the effective date of published final rules.

States that have adopted the new regulations may cite a CMV driver under 49 CFR 392.80(a) when a CMV driver is observed texting while driving and 49 CFR section 392.82(a)(1) when a CMV driver is observed using a hand-held mobile phone while driving. For States with delayed adoption of the Federal Motor Carrier Safety Regulations, until the new regulations are adopted, the State may cite the driver for the appropriate violation under 49 CFR 390.17.

Enforcement of Federal Out-of-Service (OOS) Orders During Roadside Inspections

In the past year, FMCSA and its State partners have placed a significant number of motor carriers out-of-service and/or revoked their operating authority as a result of safety violations, failure to pay civil penalties, failure to maintain insurance, or presenting an imminent hazard. There has also been progress in identifying elusive motor carriers that refuse safety audits, avoid the safety regulations entirely by fraudulently claiming to be engaged exclusively in intrastate operations, or operate after FMCSA’s vetting process denies them operating authority. We must continue to ensure that operating authority and operating status are scrutinized during all inspections and when a motor carrier is found to be in violation, enforcement personnel must take appropriate action. However, data indicates that some of these carriers continue to operate and are not cited and placed out-of-service.

States must continue to ensure that each motor carrier's operating authority status is confirmed with every inspection and take appropriate action against each non-compliant carrier.

To ensure that the most recent data are used to verify operating status, FMCSA encourages all enforcement personnel, whether at fixed facilities or on patrol, to use Query Central. When Query Central is not available, verification of operating status should be completed by contacting the appropriate FMCSA Service Center before placing the vehicle OOS.

Increased Driver-Focused Inspections

To further reduce the incidence of fatal and serious injury crashes, States should continue their increased focus on unsafe behaviors of both CMV and non-CMV drivers. **Because Level III inspections focus specifically on CMV drivers, States are strongly encouraged to maintain or increase the number of Level III inspections in FY 2013 to at least 33 percent of all inspections performed.**

Increased driver focus may also be accomplished by increasing traffic enforcement activities in identified high-risk areas. Examples of effective programs are the "Operation Safe Driver" initiative, sponsored by CVSA in partnership with FMCSA, and TACT activities supported by HP grants. These programs improve commercial and non-commercial driver behavior and performance through effective enforcement, education, and awareness strategies. The States may obtain additional information about "Operation Safe Driver" strategies online at www.cvsa.org. Additional information about TACT can be found online at: <http://www.fmcsa.dot.gov/safety-security/tact/index.htm>.

Additionally, States must increase their scrutiny of all CMV drivers to ensure compliance with commercial driver's license regulations. The FMCSA encourages the use of the Commercial Driver's License Information System (CDLIS) as the primary method to verify a commercial driver's license (CDL) status during every inspection and traffic stop. Status checks can also be conducted through Nlets (the International Justice and Public Safety Network) or the State driver licensing agency. States must take appropriate enforcement action when driver deficiencies are discovered.

Hazardous Materials (HM) Program

The FMCSA encourages States to maintain an increased focus on the compliance of HM motor carriers, shippers and bulk package transporters during safety interventions, including CSA interventions, roadside inspections, Multi-Agency Strike Force Operations (MASFO) and annual road checks.

States are also encouraged to actively participate in national enforcement strike forces targeting HM Shippers, Cargo Tank Repairers and Testers, and Shippers and Transporters of Class 1 Fireworks. In conjunction with the MASFO or other strike force, States are encouraged to either conduct or attend refresher training pertinent to the activity.

- Once the dates of the Fireworks MASFO are set, States are encouraged to conduct roadside inspections targeting motor carriers transporting Class 1 fireworks. This strikeforce will generally be conducted in the timeframe of June 1 through July 31.

- States are encouraged to conduct on-site investigations and HM Packaging Inspection Program (HMPIP) reviews on HM Shippers. This information is vital to the accuracy of the Hazardous Materials Shipper Prioritization Application (HMSPA), an application in the FMCSA Portal used for prioritizing shippers for inspection.
- Once the dates of the Cargo Tank strike force are set, States are encouraged to conduct on-site investigations on cargo tank facilities and roadside inspections on Cargo Tank transporters. A strong focus on cargo tank motor carriers will enhance reviews of unsafe cargo tank inspection and repair facilities.

These HMPIP shipper inspections, fireworks MASFO's, and cargo tank strike force inspections and enforcement activities, when combined with Hazmat Intermodal Portal (HIP), greatly aid the HMSPA. The HMSPA utilizes data from MCMIS, HMPIP, HIP and the Enforcement Management Information System (EMIS) to guide federal and state investigators to HM Shippers involved in HM incidents, inspections and enforcement, and to those likely to violate the HM regulations.

Non-compliance in the transportation of large quantities of HM poses a great risk to highway safety and the general public. Therefore, FMCSA recommends that States conduct on-site comprehensive investigations of wholly-intrastate carriers of HM in bulk. The FMCSA does not rate these carriers at the present time, and most of them have never been subjected to an on-site investigation. Moreover, a number of these carriers are found to be applying for Special Permits through PHMSA in order to conduct certain activities outside the HMR. Generally, these carriers have neither been reviewed, nor inspected at roadside, preventing FMCSA from evaluating these carriers appropriately as part of the Special Permit process.

The FMCSA encourages States, whenever possible, to coordinate with their emergency response community on responses to crashes involving HM or Cargo Tank vehicles, and increase awareness of the risks associated with transporting HM.

The FMCSA encourages States to identify the agency within each State responsible for designating Hazardous Materials Highway Routes per 49 CFR Part 397. It is imperative that FMCSA make available to the public an up-to-date listing of all HM routes designated in the United States. In order to do so, FMCSA must rely on its State partners to supply this information to their respective FMCSA Division Office in order to maintain the safety and security of HM in transportation.

The FMCSA encourages States to adopt 49 CFR Part 385 to promote enforcement of the Hazardous Materials Safety Permit (HMSP). The HMSP motor carriers are held to a higher standard of safety performance because of the severe hazards of the HM they transport. State roadside inspection personnel are ideally situated to enforce the HMSP rules.