

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
FREQUENTLY ASKED QUESTIONS RELATING TO THE MCSAP GRANT PROGRAM
EXPANDED EMERGENCY DECLARATION UNDER 49 CFR §390.23
No. 2020-002

The Federal Motor Carrier Safety Administration (FMCSA) has compiled a list of frequently asked questions (FAQs) to respond to questions regarding the impact of the national emergency declared by the President related to Coronavirus Disease 2019 (COVID-19) and the Expanded Emergency Declaration issued by FMCSA under 49 CFR § 390.23 on activities and cost eligibility under the Motor Carrier Safety Assistance Program (MCSAP). This FAQ document will be updated as additional information becomes available.

Note: This guidance document does not have the force and effect of law and is not meant to bind the public in any way. This guidance is intended only to provide clarity regarding existing requirements under the law.

1. **Question:** *Does the Expanded Emergency Declaration issued by FMCSA impact commercial motor vehicle safety inspection activities conducted under the Motor Carrier Safety Assistance Program (MCSAP)?*

Response: In some cases, yes. The [Expanded Emergency Declaration](#) issued under 49 CFR § 390.23 provides regulatory relief for commercial motor vehicle operations that are providing direct assistance in support of emergency relief efforts related to the COVID-19 outbreaks. Motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 outbreaks are granted emergency relief from 49 CFR Parts 390 through 399. We strongly urge all MCSAP enforcement partners to read the entire Expanded Emergency Declaration carefully as it contains important information on exempted requirements.

2. **Question:** *Does the emergency declaration for the industry apply to U.S. Territories?*

Response: No, by its terms, the Expanded Emergency Declaration does not apply to U.S. Territories. This is because the Federal Motor Carrier Safety Regulations (FMCSR) covered by the emergency declaration do not generally apply to the Territories. However, MCSAP partners located in Territorial jurisdictions should consult their Departmental guidance for more information on permitted activities during the COVID-19 outbreak.

3. **Question:** *An agency has MCSAP funded personnel that are quarantined due to potential exposure to the COVID-19 virus. If the troopers are part time or full time MCSAP-dedicated, can the State pay the troopers for the time they spend quarantined and be reimbursed under MCSAP?*

Response: Yes, but this is dependent on the type of pay being utilized by the State. States must adhere to the accounting and reimbursement method used for personnel expenses within their Commercial Vehicle Safety Plan (CVSP).

Employee health and welfare costs are generally allowable under 2 CFR § 200.437 and would be allowable costs reimbursable under MCSAP. If the State utilizes personnel activity records for direct reimbursement and is paying personnel for normal work hours during their quarantine period, then the State may request reimbursement under its MCSAP grant for the appropriately allocated percentage of time that the individual is typically engaged in MCSAP activities. For example, if troopers are dedicated as 50% MCSAP as a part of their normal duty station, then the State may request reimbursement for 50% of their pay (as they would normally under their formula grant) during their quarantine period.

If a jurisdiction is accounting for the time as sick leave or any other form of leave during the employee's quarantine period, then they must follow the methodology used for reimbursement of these hours contained within the State's CVSP (i.e. indirect rate, fringe, direct reimbursement, etc.). As above, it is important to ensure that the percentage of time is properly allocated, if applicable.

Please note that States must maintain all necessary documentation and records to support reimbursement of personnel expenses during the individual's quarantine.

4. **Question:** *Are MCSAP funded personnel allowed to work remotely on certain safety related activities, such as offsite investigations and audits?*

Response: Yes, MCSAP personnel working remotely generally are still eligible for reimbursement if they are engaged in activities supported under the State's CVSP. Thus, those individuals engaged in offsite new entrant safety audits and/or investigations would continue to be reimbursed for these efforts. States should continue to document time and personnel activity as required under non-emergency circumstances. The FMCSA is currently encouraging all Federal staff to conduct only offsite new entrant safety audits and investigations via remote or offsite means.

The FMCSA encourages all MCSAP personnel to follow their State and departmental policies regarding work and reporting locations. Also, we strongly urge MCSAP partners to remain up-to-date about recommendations regarding COVID-19 from official public health sources.

5. **Question:** *Would the cost of additional personal protective equipment (PPE) required as part of the COVID-19 response be reimbursable under MCSAP?*

Response: Yes. The safety of all individuals is of the utmost importance. State personnel should follow their department's guidance for appropriate use of PPE and procedural adjustments

during the COVID-19 outbreak. It is also important to remain abreast of developments from appropriate public health resources.

Supply costs, as defined under 2 CFR § 200.94, are generally allowable as long as such supplies are necessary to carry out the Federal grant award. PPE would be allowable and reimbursable under MCSAP when the State demonstrates that the use of PPE is necessary to carry out the award safely. For instance, if a State needs to invest funds in PPE, such as masks, gloves, or other appropriate PPE for MCSAP personnel as part of the COVID-19 response outside of the original supplies included in their CVSP, in order to enable the MCSAP personnel to continue to conduct CMV safety activities, such as inspections, traffic enforcement, and compliance reviews, then FMCSA will allow the State to request reimbursement for these costs under the State's MCSAP grant. States requesting reimbursement for these costs under MCSAP should classify PPE as supplies based on the per item cost and any State-based purchase policies.

If the State has not yet submitted its "Final" CVSP for FY 2020, the State should document these requests and costs within its CVSP and submit the document to FMCSA for review. If the State is seeking to cover these costs under its CVSP finalized for FY 2019, then a budget modification request form should be completed and submitted to the appropriate FMCSA Division office for review.

6. **Question:** *If the State's MCSAP activities are reduced as a result of the COVID-19 outbreak, will the State still be in compliance with MCSAP?*

Response: The FMCSA recognizes that commercial vehicle safety activity will be impacted as a result of the COVID-19 outbreak and efforts to reduce the risk of potential in-person exposure for MCSAP personnel. While the Agency is not identifying a specific acceptable "level" of activity reduction, MCSAP compliance will not be impacted should a State need to adjust efforts in relation to outbreak response.

States should continue to document how the COVID-19 response is impacting their CMV safety efforts as outlined in their CVSP. The FMCSA will address this question on a case-by-case basis with each State as necessary in the coming months.

States should also maintain this documentation as it may prove useful in the future should a jurisdiction need to request a modification to the State's maintenance of effort (MOE) or matching requirements under its MCSAP formula grant. The FMCSA will provide additional detailed information on how a State may request this relief in the near future.

As in all instances regarding a State's response to COVID-19, the FMCSA is encouraging MCSAP grantees to follow their Departmental guidance regarding person-to-person contact, exposure, and activities.

7. **Question:** *Due to staff reductions and office closures caused by the COVID-19 outbreak, the State agency might revoke carrier vehicle registrations without notifying the carrier by letter because the issuance of the letters is currently a manual process for the State agency. Is this allowed?*

Response: The FMCSA out of service (OOS) order against a carrier is the impetus for a State to take action against a carrier's vehicle registration as part of the Performance Registration Information Systems (PRISM) program. Vehicle registration is issued and maintained by the States. The participation requirements for PRISM require that a State suspend/revoke the vehicle registration of a carrier when notified by the FMCSA of an OOS. Sending letters to notify carriers of a suspension or impending suspension is a State-specific process that is up to the individual jurisdiction.

The FMCSA is aware that staffing reductions and office closures resulting from the COVID-19 outbreak might result in some State agencies' revoking vehicle registrations without notifying the carrier by letter and that a reasonable alternative means of notification might not be available. When reasonable, States should provide some form of notice to carriers or the general public of this change in procedure. FMCSA is also aware that some States may be unable to process registration suspensions for OOS carriers because State due process requirements require that the carrier be provided a specific period to address an OOS before action can be taken against the carrier's registration. If a State is unable to process registration suspensions for OOS carriers, then the State must notify its FMCSA Division Office as soon as possible.

The continued operation of unsafe carriers poses a direct threat to public safety, and the FMCSA encourages States to continue processing vehicle registration suspensions for OOS carriers for as long as possible during the COVID-19 outbreak.

8. **Question:** *If the timeliness of the State's crash data uploads is negatively impacted by staff reductions and office closures caused by the COVID-19 outbreak, will the State's compliance with MCSAP requirements be jeopardized?*

Response: The FMCSA recognizes that certain data reporting requirements may be impacted by State responses to the COVID-19 outbreak and staff reductions caused by social distancing in response to the outbreak. Although the data reporting requirements and metrics will not be modified during the national emergency, at this time, the FMCSA does not intend to withdraw approval of the State's CVSP or withhold MCSAP funds due to such data reporting issues, provided that the State promptly brings its practices back into compliance with the requirements of MCSAP after the national emergency related to COVID-19 ends. The FMCSA will address any data reporting issues (as needed) on a case-by-case basis once emergency activities are concluded.

9. **Question:** *Can a State use MCSAP funds to provide escorts to motor carriers engaged in the delivery of supplies, goods, fuel, etc., covered in FMCSA's Expanded Emergency Declaration?*

Response: Yes, under certain circumstances. While the Expanded Emergency Declaration encompasses a range of activities, there are limitations on what qualifies as a delivery in relation to the COVID-19 response.

Escort provided to motor carriers engaged in the direct support of efforts related to the COVID-19 outbreak, such as delivering necessary supplies vital to the provision of medical care services, transporting personnel to hospital facilities, delivery of fuel to address emergency shortfalls, and other activities listed in the Expanded Emergency Declaration would be eligible for reimbursement under MCSAP.

However, escorts provided to motor carriers for regularly scheduled deliveries that would be considered "routine commercial deliveries" under the Expanded Emergency Declaration would not be covered.

States should rely on the guidance provided in the Expanded Emergency Declaration and exercise good judgment in distinguishing between routine deliveries and emergency deliveries covered under the Declaration.

Please note that States must maintain all necessary documentation and records to support reimbursement of MCSAP personnel expenses during COVID-19 related response activities.

10. **Question:** *Due to the COVID-19 outbreak, may a State instruct MCSAP officers to waive inspections for traffic enforcement activities and just issue a warning or citation when there is a violation?*

Response: States should continue to follow the commercial motor vehicle (CMV) traffic enforcement activity proposed in their CVSPs as much as possible. However, the FMCSA recognizes that the number and type of inspections that the State is able to conduct may be affected by the COVID-19 outbreak and by efforts to reduce the risk of potential in-person exposure. MCSAP personnel should follow their departmental guidance regarding limitations on activity during the outbreak. When conducting traffic enforcement, please note that FMCSA is not requiring drivers to carry copies of the Expanded Emergency Declaration in the cab.

If a State is unable to meet the "CMV with an inspection" objective within the State's CVSP traffic enforcement section due to COVID-19 impact, documentation on non-inspection traffic enforcement should still be maintained and reported to the FMCSA Division Office.