



Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group

Meeting Minutes

October 18, 2018

November 1, 2018

November 13, 2018

November 30, 2018

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held four interactive web-based conferences at the request of FMCSA to discuss proposed changes to the Working Group's April 7, 2017 MCSAP Formula Recommendation.

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Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group
Meeting Minutes
October 18, 2018

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held an interactive web-based conference call on October 18, 2018. Thomas Liberatore, FMCSA, called the meeting to order at 10:30 a.m. EDT.

The following individuals attended the meeting:

MCSAP FORMULA WORKING GROUP MEMBERS*

Lt. Donald Bridge, Jr., Connecticut Department of Motor Vehicles
Caitlin Cullitan, Attorney Advisor, FMCSA
Thomas Fitzgerald, Massachusetts State Police
Adrienne Gildea, Commercial Vehicle Safety Alliance (CVSA)
Thomas Liberatore, Chief, State Programs Division and DFO, FMCSA
Michelle N. Lopez, Colorado State Patrol
Alan R. Martin, Ohio Public Utilities Commission
Dan Meyer, Division Administrator, Illinois Division, FMCSA
Capt. Brian Preston, Arizona Department of Public Safety
John E. Smoot, Kentucky State Police
Courtney Stevenson, Senior Policy Advisor, FMCSA
Col. Leroy Taylor, South Carolina Department of Public Safety

** Lt. Stephen Brent Moore, Georgia Department of Public Safety, was not in attendance.*

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Michael Chang, U.S. DOT, Volpe Center
Sean Gallagher, FMCSA
Dianne Gunther, U.S. DOT, Volpe Center
Tom Keane, Director, Office of Safety Programs, FMCSA
Nancy Kennedy, U.S. DOT, Volpe Center
Jack Kostelnik, State Programs, FMCSA
Dana Larkin, U.S. DOT, Volpe Center
Raymond Martinez, Administrator, FMCSA
Bill Quade, Assistant Administrator, Enforcement and Program Delivery, FMCSA
Julianne Schwarzer, U.S. DOT, Volpe Center

OTHER ATTENDEES

Emily Dinkelacker, DIGITALiBiz

1. Welcome and Objectives

Presentation

Tom Liberatore welcomed the MCSAP Formula Working Group members and other attendees to the meeting.



Julianne Schwarzer, U.S. DOT Volpe Center, welcomed everyone and conducted a roll call. Schwarzer then introduced FMCSA Administrator Raymond Martinez.

Administrator Raymond Martinez thanked the Working Group for their efforts to-date. Martinez appreciated the time and effort put into this project and the well-considered recommendations. Martinez stated he was very impressed with the results and that FMCSA agrees with the majority of the Working Group's recommendations. He asked the Working Group to take a closer look at Territory Allocation, Border Allocation, and the Border Maximum Limit. Since the Working Group completed their initial evaluation, there has been an increased Federal focus on border safety and security due to human trafficking and the renegotiation of trade agreements with Canada and Mexico. Because of this focus, FMCSA would like to ensure that the updated MCSAP Formula includes sufficient border funding, and sufficient and equitable funding for the Territories. Administrator Martinez thanked the Working Group for all of their important work and stated that it is critical for FMCSA to be in sync with its State Partners.

Liberatore thanked Administrator Martinez and echoed his remarks, reiterating that while FMCSA agrees with the majority of the Working Group recommendations, the Agency believes that Territory Allocation, Border Allocation, and the Border Maximum Limit require further discussion. Liberatore provided a brief overview of meeting objectives for the call, which are outlined below:

- Dianne Gunther, U.S. DOT Volpe Center, will review the Working Group's proposed recommendations for Territory Allocation, Border Allocation, and the Border Maximum Limit.
- Gunther will discuss FMCSA's proposed changes to the MCSAP Working Group's recommendations.
- Michael Chang, U.S. DOT Volpe Center, will walk through the data behind the proposed alternatives.
- Schwarzer will determine if a decision can be reached and discuss the next steps for each of these recommendations.

2. Territory Allocation Refresher

Presentation

Dianne Gunther thanked Tom Liberatore for the introduction. Gunther stated she would go through a quick refresher of the Working Group's proposal and then review FMCSA's alternative and rationale. She stated that Michael Chang will go over the numbers in more detail towards the end of the presentation, at which time the Working Group is welcome to ask questions.

- The Working Group's Recommendation:
 - The Working Group had initially proposed to allocate 0.65% of total MCSAP funds to support and develop commercial motor vehicle (CMV) safety activities and programs within the U.S. Territories (Guam, the Commonwealth of the



Northern Mariana Islands [CNMI], the U.S. Virgin Islands, and American Samoa).

- **Rationale:**
 - The Working Group's rationale behind this recommendation was to make sure the allocation to the Territories was based on need. The Working Group did not want arbitrary numbers. They looked at Commercial Vehicle Safety Plan (CVSP) data from the Territories and found some information about changes in wages and limitations with current funding. They used this CVSP data to assess potential needs.
 - The Working Group also wanted to account for future programmatic growth, so they added an extra 25% to the CVSP data estimate.
- **FMCSA Territory Allocation Proposed Alternative:**
 - FMCSA felt that the allocation proposed by the Working Group was too high based on what the Territories had historically spent.
 - FMCSA proposed lowering the Territory Allocation from 0.65% to 0.49%.
 - In the spirit of the Working Group's alternative, FMCSA proposed keeping the allocation as a percentage instead of a dollar amount to ensure that if the overall funding amount does grow, the allocation will grow with it.
 - Gunther reminded everyone that Puerto Rico is considered a State in terms of the MCSAP Formula.
 - Under the current formula, each Territory receives a baseline amount of \$350,000.
 - Liberatore reminded the group that Territories do not have a matching requirement (States are required to match 15%), so the full 0.49% would come from Federal funds.
- Gunther displayed a table of projected funding for each proposal. See Table 1 below.

Table 1. Projected Territory Allocation Funding by Proposal

Proposals	Territory Allocation	Amount
MCSAP Working Group (Fiscal Year [FY] 2020)	0.65%	\$1,980,000
FMCSA (FY 2020)	0.49%	\$1,490,000
Current Formula	\$350,000 each	\$1,400,000

- Gunther stated that Michael Chang will provide additional projected funding information.

Julianne Schwarzer conducted a poll to determine if the group needed more information to make a decision on the Territory Allocation proposals. 30% of the group responded that they needed more information.



3. Border Allocation Refresher

Presentation

FMCSA is proposing alternatives for Border Allocation and Border Maximum Limit.

- The Working Group's Recommendation:
 - The Working Group proposed 9.5% of total MCSAP funds be allocated to Border States through a component of the formula that specifically focuses on border activities.
- Dianne Gunther displayed a table that depicts how the Working Group calculated the proposed Border Allocation. See Table 2 below, which can also be found in the Working Group's final report.
 - Gunther explained that the original amount of \$32,000,000 is what has been allocated to border enforcement in the past. The amount received from Federal funding would be \$27,200,000 (85% of the original amount), given that under the terms of the MCSAP Grant, the Federal government will contribute 85%, with the States matching at 15%.
 - Table 2 takes into account the 15% match from the States.

Table 2. Calculating Proposed Border Allocation

Row	Calculation Step	Formula	Amount
1	Original Dollar Amount		\$32,000,000
2	Federal Share of Funding		85%
3	New Federal Dollar Amount	(1)×(2)	\$27,200,000
4	FY 2017 Total Amount (After Takedown)		\$288,211,000
5	Federal Dollar Amount as % of FY 2017	(3)÷(4)	9.44%
6	% of FY 2017 for Border, Rounded		9.50%

- FMCSA's Border Allocation Proposed Alternative:
 - FMCSA proposed increasing the 9.5% Border Allocation to either 11% or 12%.
- Rationale:
 - There have been recent changes in border policy. These changes include a government-wide focus on human trafficking, which could result in the need for more inspections. The renegotiation of trade agreements with Canada and Mexico could also change border activity. Given these changes, FMCSA would like to maintain current Federal funding levels.
 - The Working Group stated concerns with aligning funding with overall crash risk. Overall funding still aligns with crash risk if border funding is increased to 11% or 12%. The top ten highest funded States will remain the same under these new funding levels.



- Gunther explained that when the Federal border funding levels are maintained—meaning the States would not be required to match 15% and all border funding would be Federal—the percentage of border funding under this scenario would be 11% of total MCSAP funding. See Table 3 below for a breakdown of this calculation.

Table 3. Calculating Proposed Border Allocation, Federal Funding Maintained

Row	Calculation Step	Formula	Amount
1	Original Dollar Amount		\$32,000,000
2	Federal Share of Funding		85%
3	New Federal Dollar Amount	(1)×(2)	\$27,200,000
4	FY 2017 Total Amount (After Takedown)		\$288,211,000
5	Federal Dollar Amount as % of FY 2017	(1)÷(4)	11.10%
6	% of FY 2017 for Border, Rounded		11%

Julianne Schwarzer conducted a poll to determine if the group needed more information to make a decision on the Border Allocation proposals. 55% of the group responded that they needed more information.

4. Border Allocation-Border Maximum Limit Refresher

Presentation

Dianne Gunther displayed an excerpt from the Working Group’s recommendation that states: “Each State that shares a border with Canada or Mexico should receive no more than 50% of the Border Component of MCSAP funding. This maximum limit allows funding for border enforcement activities across all States, rather than allowing funds to be concentrated in just a few States. The anticipated impact based on current data is small, but the provision would promote a balanced program in the future if cross-border traffic patterns or ports of entry were to shift dramatically.”

- The Working Group’s Recommendation:
 - The Working Group proposed that a State’s share of the Border Component should be based on its share of personnel needed for the ports of entry in that State, with a minimum and maximum limit. It should be calculated as follows:
 - Sum the personnel need across all ports in a State, and divide by the national total.
 - Apply minimum and maximum limits—each border State should receive no less than 0.075% and no more than 50% of the Border Component of MCSAP funding.
 - FMCSA agrees with this entire recommendation except for the 50% maximum. Based on the current funding data, a 50% maximum limit has very little impact,



and only Texas is affected.

- FMCSA's Border Maximum Limit Proposed Alternative:
 - FMCSA proposed to remove the 50% maximum limit.
- Rationale:
 - FMCSA believes that the largest Border programs need the most funding and that the Working Group's recommendation would be an unnecessary restriction. Removing this limit allows for greater flexibility if border traffic patterns do change.

Julianne Schwarzer conducted a poll to determine if the group needed more information to make a decision on the proposals for the Border Maximum Limit. 55% of the group responded that they needed more information.

5. Territory Allocation Data Discussion

Presentation

Dianne Gunther introduced Michael Chang to guide the Working Group through the spreadsheet, which was shared prior to the meeting.

- A Working Group member asked as part of the justification for reducing the Territory Allocation, if FMCSA was suggesting that perhaps they were giving the Territories too much funding in the past?
 - Tom Liberatore stated that he would not phrase it that way. The team looked at data over the past 3-5 years, specifically at what the grant unexpended balances had been. While every grantee would have unexpended balances for some reason (e.g., weather issues) the Territories already are given a fixed amount that is relatively small compared to what the States receive and it is concerning that they are still seeing unobligated balances for certain Territories each year.
 - FMCSA's proposal makes funding more congruent with what is actually being spent while acknowledging the Working Group's concern with tying funding to the total MCSAP allocation. The proposal also keeps the option open to provide more funding to Territories with higher populations, and therefore higher crash risk. It does this while keeping total funding at a more reasonable level that the Territories can and will spend.
- Chang walked through the different proposed scenarios and calculated funding amounts expected in FY 2020 to help make a decision based on what the funding impact would be based on alternatives using FY 2017 funding (pre-formula) and FY 2019 funding (most recent formula) for baseline comparisons.
- Chang went over the high-level points of the spreadsheet, which are summarized below:
 - Territory Allocation:
 - In the Territories tab, the funding impacts are shown for 0.65% allocation and 0.49% allocation. This table also keeps the \$350,000 baseline.
 - In the 0.49% scenario, Territory funding levels would increase from the \$350,000/each baseline scenario. The surplus would go to Guam due to its population size.



- FMCSA came up with a way to distribute the funding to each Territory using population as a formula factor, but only rated it at 50%. They also propose a \$350,000 minimum for each Territory.
 - To add to the rationale behind this, Liberatore stated that from a legal perspective, the formula-based grant cannot turn into a discretionary grant. By using population as a formula factor, it allows funding to change should population change or shift, but also assures the \$350,000 baseline so that no Territory will receive less than what they are used to receiving. Population was selected as the factor as it is highly correlated with crash risk.

Discussion

Julianne Schwarzer asked if anyone had any additional questions on Territory Allocation at this point in time.

- The Working Group noted that they had agreed to several other recommendations relating to the Territories, and asked if those recommendations would be impacted by FMCSA's proposed change.
 - Liberatore said that those recommendations would not change.
 - A Working Group member asked if there was a way to show what the calculation would have been without the \$350,000 minimum.
 - Chang displayed the calculation that showed the allocation before the minimum rule was applied, and explained that in order to bring some Territories up to the \$350,000 minimum, they needed to reduce funding to the other Territories.

Schwarzer asked if anyone still had objections to the change.

- A Working Group member said that they still vacillate because they wonder if they are forgetting something from their original discussions.
 - Liberatore stated that the team had a lot of decisions to make regarding the formula, and that they wished they had thought of this during the initial process.
 - Schwarzer said that her memory of the discussions that took place was that everyone wanted to do right by the Territories, but that it was not one of the more contentious decisions.
- The Working Group asked what Guam typically spends and if the number produced by the calculation addressed Guam's need.
 - Liberatore stated that usually Guam only asks for \$350,000, because that was what they were allowed to receive, but that based upon what the team has seen for output and spending, this new number covers their needs.
- The Working Group asked if the U.S. Virgin Islands needs were met, given that their number had to be reduced to the baseline to cover the other Territories.
 - Liberatore stated that they predict their needs will be met.
 - Tom Keane, FMCSA, mentioned the unique productivity of Guam and stated it has the potential to put the additional funding to good use.



6. Border Allocation Data Discussion

Presentation

Julianne Schwarzer prefaced by stating that the Working Group may not be able to complete this discussion today due to time constraints.

Michael Chang displayed the different simulations, beginning with the original Working Group recommendation. Each scenario calculates the dollar amount and the difference from the baseline amount. Instead of going State by State, Chang displayed an aggregate view based on Border States, Northern Border States, Southern Border States, and non-border States.

- Chang noted some interesting findings.
 - Using the original Working Group recommendation and the FY 2017 baseline, the overall MCSAP grant for all Northern Border States combined increased by over \$700,000, while Southern Border State funding decreased by \$4,900,000.
 - Using the same formula, but updating it with FY 2020 funding, all States see an increase, Northern Border States by \$2,700,000 and Southern Border States by \$1,200,000.
 - He also showed a scenario with the maximum removed, in which Northern Border States increased by \$2,700,000 and Southern Border States increased by \$800,000, although since the Border Maximum Limit applied to one State, the Cap/Hold Harmless Clause creates a shift.

Discussion

- The Working Group asked if columns I, J, K, and L in the spreadsheet included the maximum.
 - Chang stated that they do not include the maximum limit. He explained the initial thought was to not bombard the Working Group with too much data. He stated that after this call he could send a revised spreadsheet with additional columns that included the maximum.
- A Working Group member asked if the columns included the Cap/Hold Harmless Clause calculations, and Chang stated that they did.

7. Border Allocation-Maximum Limit Data Discussion

Presentation

The team did not reach this point of the discussion due to time constraints.

8. Wrap Up

Julianne Schwarzer stated that the meeting had reached its end. The polls would be re-run and then the Working Group would determine next steps including the date of the follow-up meeting, as well as what other information the Working Group would like to see.

- Polling Question: Do you agree with the proposed change to the Territory Allocation?



- 100% Agree
 - Decision: The Working Group agrees with the Territory Allocation change. The issue is closed.
- Polling Question: Do you agree with the proposed change to the Border Allocation?
 - 36% Agree
 - 9% Disagree
 - 55% Need More Information
 - Decision: The Working Group, FMCSA, and the Volpe Analysis Team need to discuss this further.
- Polling Question: Do you agree with the proposed change to the Border Allocation-Maximum Limit?
 - 27% Agree
 - 27% Disagree
 - 45% Need More Information
 - Decision: The Working Group, FMCSA, and the Volpe Analysis Team need to discuss this further.

Schwarzer stated that they would schedule a follow-up discussion about both components of the Border Allocation changes. She asked if the Working Group would prefer an in-person meeting or another web-based conference call.

- Tom Liberatore stated that FMCSA would like these issues resolved by the end of the calendar year.
 - Polling Question: Would you prefer an in-person meeting or another conference call?
 - About half of the Working Group said they would prefer an in-person meeting. The other half stated they had no preference.
 - A Working Group member reminded the other members that they had developed guiding principles to inform their decision-making, and asked the group to review the principles and keep them in mind during the next meeting.
 - Another Working Group member stated that it might be a good idea to have a brief conference call before the in-person meeting to give Michael Chang an opportunity to present the additional data requested earlier in the meeting. Others in the Working Group agreed with this approach.
 - Decision: The team agreed to schedule an in-person meeting either the last week of November or the second week in December. However, they will also schedule a call the first week of November to go over the new data that Michael Chang will be compiling as well as any questions in preparation of the in-person meeting. If they are able to come to an agreement on the call, then the in-person meeting may not be necessary.
- One Working Group member stated their concern surrounding the emphasis put on border security as something they would like to discuss further at the next meeting.



- Liberatore stated that he would reach out to collect data requests within the next 24 hours. He asked that the Working Group send their requests to him, Michael Chang, and Dianne Gunther. He encouraged the Working Group to stay focused on the guiding principles and the issues addressed today. The team will not need to discuss the Territory Allocation anymore, as a decision has been reached.

Tom Liberatore thanked everyone for joining the call today. He stated he feels confident that the group will be able to reach a decision.

Julianne Schwarzer also thanked everyone and promised to be in touch shortly with a poll on dates for an in-person meeting and to collect additional data requests.

ACTION ITEMS

Topic	Action Item	Assignment
Next Meeting	Working Group will send additional data requests to Tom Liberatore, Michael Chang, and Dianne Gunther.	Working Group
Next Meeting	Working Group will fill out a poll to determine when the best date is to hold an in-person meeting.	Working Group
Additional Data Requests	The Volpe Analysis Team will put together additional data requests for the next conference call.	Volpe Analysis Team

PRESENTATIONS

	Presenter(s)	Presentation
1	Michael Chang, Dianne Gunther, Thomas Liberatore	MCSAP Formula Working Group October 18, 2018 Webinar

SUMMARY OF DECISIONS

The purpose of this meeting was to allow FMCSA to respond to the recommendations the Working Group made to the MCSAP Formula. FMCSA agrees with all of the recommendations, with the exception of the proposed changes to Territory Allocation, Border Allocation, and the Border Maximum Limit. FMCSA asked the Working Group to discuss and analyze these three topics. The table below provides a summary of the decisions made on:



Issue	Decision	Status
1. Territory Allocation	FMCSA proposed changing the Territory Allocation from 0.65%, as recommended by the Working Group, to 0.49%. The Working Group agreed with this proposed alternative. The issue is closed.	Closed
2. Border Allocation	FMCSA proposed changing the Border Allocation from 9.5%, as recommended by the Working Group, to either 11% or 12%. After some discussion, the Working Group decided that they would need more information before coming to a decision. The Working Group will provide their data requests to the Volpe Analysis Team. The entire group will have a final call to go over new data early November. The group then voted to have an in-person meeting in order to come to a decision. The meeting is slated for the end of November.	Open
3. Border Maximum Limit	FMCSA proposed to remove the 50% Border Maximum Limit. The group ran out of time before they were able to fully delve into this issue and therefore require more information and discussion before reaching a decision. The Working Group is welcome to look at the spreadsheet Michael Chang shared prior to the meeting and request additional information. The entire group will discuss this issue and reach a decision at the in-person meeting, which will be held at the end of November.	Open



Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group
Meeting Minutes
November 1, 2018

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held an interactive web-based conference call on November 1, 2018. Thomas Liberatore, Chief, State Programs, FMCSA, called the meeting to order at 11:00 a.m. EDT.

The following individuals attended the meeting:

MCSAP FORMULA WORKING GROUP MEMBERS*

Lt. Donald Bridge, Jr., Connecticut Department of Motor Vehicles
Caitlin Cullitan, Attorney Advisor, FMCSA
Adrienne Gildea, Commercial Vehicle Safety Alliance (CVSA)
Thomas Liberatore, Chief, State Programs Division, Designated Federal Officer, FMCSA
Michelle N. Lopez, Colorado State Patrol
Alan R. Martin, Ohio Public Utilities Commission
Dan Meyer, Division Administrator, Illinois Division, FMCSA
Lt. Stephen Brent Moore, Georgia Department of Public Safety
Capt. Brian Preston, Arizona Department of Public Safety
John E. Smoot, Kentucky State Police
Courtney Stevenson, Senior Policy Advisor, FMCSA
Col. Leroy Taylor, South Carolina Department of Public Safety
** Thomas Fitzgerald, Massachusetts State Police, was not in attendance.*

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Michael Chang, U.S. DOT, Volpe Center
Dianne Gunther, U.S. DOT, Volpe Center
Tom Keane, Director, Office of Safety Programs, FMCSA
Jack Kostelnik, State Programs, FMCSA
Dana Larkin, U.S. DOT, Volpe Center
Paul Melander, FMCSA
Bill Quade, Assistant Administrator, Enforcement and Program Delivery, FMCSA
Julianne Schwarzer, U.S. DOT, Volpe Center
Jacob York, FMCSA

OTHER ATTENDEES

Emily Dinkelacker, DIGITALiBiz

1. Welcome and Objectives

Presentation

Tom Liberatore welcomed the MCSAP Formula Working Group members and other attendees to the meeting. He stated that the purpose of the meeting is to review the data related to the Border



Component of the MCSAP Formula. Liberatore reminded the Working Group that at the last meeting on October 18, 2018, the Territory issue had been resolved. Liberatore provided a brief overview of meeting objectives for the call, which are outlined below:

- Michael Chang, U.S. DOT Volpe Center, will review the Guiding Principles developed by the Working Group to frame the conversation.
- Chang will review the data requested prior to the meeting.
- Julianne Schwarzer, U.S. DOT Volpe Center, will facilitate an open discussion on the proposed changes for the Border Component of the MCSAP Formula.
- Schwarzer will determine if a decision can be reached and discuss the next steps.

Liberatore stated that if they are able to come to a consensus today, an in-person meeting would not be needed, and they would discuss how to document the decision. However, if a consensus is not reached by the end of the meeting or if more information is requested, they will move forward with planning an in-person meeting.

2. Guiding Principles

Presentation

Michael Chang began by reviewing the Guiding Principles previously established by the Working Group in order to inform their decision-making when creating a new formula. The principles are outlined below.

- Improves upon previous formula
- Addresses changes to the MCSAP Grant
- Meets MCSAP formula requirements promulgated by the FAST Act
 - State match requirement
- Based on safety
 - Formula factors should correlate with crash risk and the final output of the formula should correlate with crash risk
- Promotes stability in funding
 - Choose stable factors and data sources
 - Consider hold harmless and cap provisions to mitigate substantial year-to-year fluctuations
- Responds to changes in crash risk
 - Use up-to-date data, which enables the formula to respond to changes more quickly
 - Balance responsiveness with stability
- Uses quality data sources
 - Use data that is collected through accurate means and that is updated regularly
- Responds to changes in overall funding level



3. Border Component Refresher

Presentation

Dianne Gunther, U.S. DOT Volpe Center, reviewed the proposed Border Component changes.

Border Allocation:

- Proposal: Change Border Allocation from 9.5% to 11% or 12% of total MCSAP funding.
 - The Working Group originally recommended 9.5%, which considered a 15% State match requirement to reach the historical Border funding amount of \$32,000,000 (using FY2017 funding amounts).
 - The alternative proposed by FMCSA increased the Border Component to 11% or 12%. For the FY2017 funding amount, 11% of MCSAP funding would equal roughly \$32 million, which maintains historical Border funding without considering the State match.
 - Rationale: Raymond Martinez, FMCSA Administrator, stated during the meeting held October 18, 2018 that FMCSA aimed to maintain current border funding levels given the government-wide focus on human trafficking and the renegotiation of trade agreements, both of which could lead to a change in traffic patterns near the borders.
 - Gunther noted that overall funding aligns well with crash risk whether the allocation is increased from 9.5% to 11%, or from 9.5% to 12%.

Border Maximum Limit:

- Proposal: FMCSA proposed removing the 50% Border Maximum Limit.
 - The Working Group proposed a 50% maximum limit for Border Allocation. This ensures that no State will receive more than 50% of what is being allocated for border funding.
 - The alternative proposed by FMCSA aligns with the Guiding Principle that the formula should be responsive to change. A restriction could prevent the formula from being responsive to the government-wide focus on human trafficking and renegotiation of trade agreements, which could result in increased border activity.

Michael Chang then reviewed the data that the Working Group requested at the last meeting. Chang displayed the Fiscal Year 2020 funding calculations based on the proposed Border Allocation changes. Chang displayed the aggregate level of funding for border States overall, northern border States, southern border States, and non-border States.

In order to increase the Border Allocation, funding would be shifted from non-border States to



border States. The impact on non-border States would be very minimal, only about 1 million dollars combined over the 37 non-border States.

Regarding the Border Maximum Limit, Texas is the only State that exceeds the current maximum of 50%. Chang explained that without a maximum border limit, Texas would receive 55.5% of Border funds because they have the highest amount of border activity. However, under the current formula, they are decreased to 50% because of the maximum limit.

- Michael Chang walked through a scenario outlined in the data provided to the Working Group, in which the Northern States received \$49,000,000 and the Southern States received \$64,000,000 in total MCSAP funding (combining Basic and Border Components). This scenario had the Border Maximum Limit in place and the Border Allocation changed from 9.5% to 11%. If the Border Maximum Limit was removed, Southern States would receive about \$600,000 more.

Michael Chang also walked through an example of how the different border funding scenarios correlate to crash risk. Overall, crash risk is highly correlated with the projected MCSAP funding. The States with higher crash risk receive more funding, and those with lower crash risk receive less funding. Even with the higher Border Allocation of 12% and the Border Maximum Limit removed, there is still a correlation between funding and crash risk.

Michael Chang showed a table with the top ten funded States and the bottom ten funded States. The top ten funded States included: Texas, California, New York, Florida, Illinois, Pennsylvania, Georgia, Ohio, Michigan, and Arizona. The bottom ten funded States included: Wyoming, Maine, New Hampshire, Vermont, Alaska, Delaware, District of Columbia, Hawaii, Puerto Rico, and Rhode Island. As changes were introduced into the formula, the top ten funded States and bottom ten funded States remained unchanged. However, Florida and Arizona shifted slightly within the top ten. Maine, Rhode Island, and Puerto Rico (which is considered a State under the MCSAP Formula) also saw similar adjustments. Chang stated while the changes were minimal, it is still important for the Working Group to think through the changes and make sure they are confident in their decision.

- A Working Group member asked if the data presented had been normalized for when the Hold Harmless clause levels out.
 - Michael Chang stated that this approach shows the immediate impacts and it does not account for 10-20 years out when a steady state will be reached.

Julianne Schwarzer then conducted a poll to determine how the Working Group was feeling at this point in the meeting. When polled on the proposed Border Allocation change, 55% of the Working Group agreed with the proposed change, 0% disagreed, and 45% of the Working Group requested more information. When polled on the proposal to remove the Border Maximum Limit, 22% of the Working Group agreed, 44% disagreed, and 33% requested more information.

4. Open Discussion

A Working Group member opened up the discussion by stating that when he was reviewing



ports-of-entry procedures it was evident that carriers chose the port based on the port's ability to support the carriers. Therefore, if the Border Maximum Limit is removed, one State may not have funds needed to support infrastructure. This could create an environment where one State with more resources to handle carriers' needs could put another State out of business.

Another Working Group member concurred with this point, stating that absolute removal of the Border Maximum Limit could be very risky without knowing the point at which it normalizes. He reminded the Working Group that the States are able to contribute, and that States such as California do not depend fully on the MCSAP Grant.

A Working Group member noted that there are other factors in the formula that can be impacted by volume changes. If another State sees a big change in border activity, other factors are going to shift as well because of how the formula was designed. She stated that she was uncomfortable with both changes relating to the Border Component because the Working Group worked very hard to determine something to approximate border activity.

Another Working Group member concurred with what was being said. He stated he was less concerned with raising the Border Allocation, but that he did not agree with removing the Border Maximum Limit. He asked if FMCSA or the Volpe Analysis Team could provide any projections for how border activity will change in response to the new trade agreements and the direction the country is moving in terms of border security.

- Tom Liberatore stated that they do not have any projections at this time of how border activity may change. He reiterated that for Border Allocation the proposed increase from 9.5% to 11% was due to the potential rise in activity based on the recent changes that Administrator Martinez spoke about during the last meeting.
- Bill Quade, FMCSA, stated that the Department's concern is that if the trade agreements do result in changes, that the formula has the ability to respond to allow for safety and security to reach the required levels. He stated that if traffic moved to Texas, that the State would need more funding to flow in that direction if the data supported that. Removing the Border Maximum Limit would allow the funding to do that so long as it was appropriate and necessary.

It was noted that in the scenario with Texas, money would be shifted from New Mexico, California, Maine, etc. to increase Texas' funding.

- Tom Liberatore stated that this would impact other border States as well. However, this would have no long-term impact on non-border States.
- A Working Group member commented that if Texas gets more volume, there are other formula factors that would also increase (such as special fuel or vehicle miles traveled). If the Border Component is changed, southern border States will receive more border funding, as well as more of the overall MCSAP Grant due to the other factors the formula takes into account. She feels that it is inappropriate to adjust funding based on one State's needs. The MCSAP Formula should be a comprehensive nationwide formula that reflects the needs of the program. She also mentioned that Congress got rid



of the Border Enforcement Grant, and to reduce the effects of that, a Border Component was added into this formula. However, the formula should not be changed based on the needs of one State.

- Julianne Schwarzer asked if she could summarize by saying that this change could introduce more inequity instead of making a positive adjustment.
- It was noted that with year-to-year caps there is not a drastic shift in funding. However, over time, the change could be significant, which could be harmful to a nationwide program.

Michael Chang showed a table depicting the distribution of border traffic, and noted that the answer does not have to be complete removal of the Border Maximum Limit. He suggested it could be another number, such as a 60% or 70% of the Maximum Limit.

Tom Liberatore asked the Working Group if no decision could be reached on the removal of the Border Maximum Limit, if they would be comfortable finding a more equitable percentage that would reflect reality.

- There was support for keeping a maximum in place because it would only benefit one State.
- The Volpe Analysis Team was asked to compile border activity data for the previous five years. Michael Chang stated that he would be able to pull together that data.
- There was a concern that it is not known what effect removing the Border Maximum Limit completely would have on other States.
 - Tom Liberatore stated that the Border Maximum Limit impacts other border States, but not non-border States.
 - The concern is that removing the Border Maximum Limit may only impact other border States, but that it negatively impacts those States.
 - Liberatore said that is correct. However, 50% could be too much of a constraint for States seeing 55% of crossings and activity. He reiterated Bill Quade's point that if the formula is predicting that most of the activity will be through one specific State, then that State should receive most of the funding based on what the formula determines.
 - Liberatore stated that the original question focused on a 50% cap, but they could also consider the option to adjust it to be a more equitable cap by looking at the activity levels.

The comment was made that if FMCSA believes Border Allocation should increase, then they should add more money to the overall MCSAP Grant to allow for that.

- Liberatore stated that adding more money to the MCSAP Grant was beyond FMCSA's capabilities. FMCSA analyzed what the Border Enforcement Grant had done in the past and how the MCSAP Grant was handling the Border Component, and were concerned that the Agency would be providing less border funding under the new MCSAP Formula.



- Julianne Schwarzer added that during the in-person meetings she felt that the Working Group's approach tied back to the overarching philosophy rather than focusing on each State individually and how that State would be impacted.

At the request of the Working Group, Chang filtered the spreadsheet to show just the border States for the Border Maximum discussion. The Working Group discussion continued as follows:

- The 50% cap was implemented under the premise that it promoted a balanced program regardless of traffic shifts. There are concerns over removing a tool that is helping to create a balanced program, in order to meet one State's needs.
- Tom Liberatore stated that the reason the Administrator called the Border Maximum Limit into question was that FMCSA was not sure that it was an equitable cap. Requiring a 15% match is not fair for States that have a Border Component because they will receive less funding than before. The goal was to have a balanced, fair, and equitable national safety program. In addition, Michael Chang had previously displayed projections for how this Border Maximum Limit could impact the border States.
- It was clarified that the debate at this point in time related to the Border Maximum Limit and whether 50% would be the correct cap.
- Generally, traffic in the ports of entry is much safer than the general public roads. This is because the borders are more heavily inspected and regulated, which leads to safer vehicles. Therefore, it's unclear why there needed to be such a strong emphasis on the border. The goal is to create an equitable nationwide program. If there is no cap on the Border Maximum, then there should not be limits on the Basic Factor Component or general MCSAP Grant either.
- Tom Liberatore stated that this was not an attempt to provide one State with more funding. He stated the purpose of the Basic Component cap was to ensure that States did not experience drastic changes in overall MCSAP Grant funding from year to year.

Julianne Schwarzer asked if there was any additional data the Working Group would like to see to help them reach a decision.

- Border crossing data over the last five years.
- The amount of money that would be needed to leave the non-border States with the level of funding they have today and also provide the border States with the increase they need.
 - Chang went back to the data and showed that if the Border Allocation increased from 9.5% to 11% and the Border Maximum Limit was removed, around \$1,150,000 would be reallocated from non-border States to border States. If the Border Allocation increased to 11% and the Border Maximum Limit was maintained, around \$875,000 would be reallocated from non-border States to border States.

Julianne Schwarzer stated that it is important to keep in mind the order of magnitude. She asked if a shift between \$875,000 and \$1,150,000 felt unmanageable. It was also clarify that before



under the Border Enforcement Grant, that money had to be spent on border enforcement. However, now, this money can be spent on anything.

- A comment was made that when the Working Group previously came up with 9.5% as the Border Allocation, it was because the Border Enforcement Grant was not the only grant that was consolidated into MCSAP. Other States had to deal with the New Entrant Grant going away, and other grants getting consolidated into MCSAP and the High Priority Grant.
- Tom Keane, FMCSA, stated that the difference was that all States, including border States, were affected equitably by the New Entrant Grant going away. But only border States were affected by the removal of the Border Enforcement Grant. As a result, some States had to request maintenance of effort (MOE) relief because of the higher State match requirement, or State legislatures had to come up with additional funds.
- A comment was made that the 9.5% Border Allocation was a uniform method with a dollar amount as close to equitable as possible.

Julianne Schwarzer asked again if more data would be helpful.

- A request was made for Border crossing data over the last five years.
- A proposal was made for an 11% Border Allocation and a 55% Border Maximum Limit.
 - This alternative would have very little impact on non-border States, but it would still protect border States and give Texas room for growth.
- If the State with the busiest border is getting 54% of funding currently and the Border Maximum Limit is increased to 55%, this could give the impression that the formula is being changed to specifically accommodate that one State.
 - The MCSAP Grant is an assistance program. A State is not supposed to get all of the funding they need for enforcement activities from this MCSAP Grant.
- Tom Liberatore clarified that the maximum would not be just for one State. If ten years from now a different State had the most crossings, this Border Maximum would apply to that State as well.
- There was a suggestion to increase the Border Maximum to 60% to allow more room for growth.

5. Wrap Up

Julianne Schwarzer stated that the meeting had almost reached its end, and that the Working Group was starting to find some potential ideas that could meet everyone's needs. She said that the in-person meeting was still on the table. She asked what potential next steps they need to discuss to move forward with the meeting.

Tom Liberatore stated that the purpose of this call was to go through the additional data that had been requested. He said that the in-person meeting is slated for November 30 based on the poll results. He asked if another conference call would be beneficial.



- Julianne Schwarzer said they would plan for the meeting on November 30, but that in two weeks they could have a very short check-in call to review additional data requests.
- There was a request for some additional simulated funding scenarios. For example, what would happen in both scenarios (with or without a 50% cap) if Border activity increased by 25%?
- Tom Liberatore suggested that they have a short call for those who had additional data requests or questions, so that they could all be on the same page for the November 30 in-person meeting at the Volpe Center.

Julianne Schwarzer and Tom Liberatore thanked everyone for their participation and said they would be in touch soon with travel information.

ACTION ITEMS

Topic	Action Item	Assignment
Next Meeting	Working Group will send additional data requests to Tom Liberatore, Michael Chang, and Dianne Gunther for an optional conference call to be held in the next two weeks.	Working Group
Additional Data Requests	The Volpe Analysis Team will put together additional data requests for the next conference call.	Volpe Analysis Team
Travel Information	The entire team should pull together travel requests for the November 30 meeting, which will be held at the U.S. DOT Volpe Center in Cambridge, MA.	FMCSA/ Working Group

PRESENTATIONS

	Presenter(s)	Presentation
1	Michael Chang, Dianne Gunther, Thomas Liberatore	MCSAP Formula Working Group November 1, 2018 Webinar

SUMMARY OF DECISIONS

The Working Group reviewed analysis results and is coming closer to finding a solution for Border Component of the MCSAP Formula that satisfies their Guiding Principles. An optional call will be held in the next two weeks to review additional data requests, followed by an in-person meeting on November 30, 2018 at the U.S. DOT Volpe Center in Cambridge, MA.



Issue	Decision	Status
1. Territory Allocation	FMCSA proposed changing the Territory Allocation from 0.65%, as recommended by the Working Group, to 0.49%. The Working Group agreed with this proposed alternative.	Closed 10/18/2018
2. Border Allocation	FMCSA proposed changing the Border Allocation from 9.5%, as recommended by the Working Group, to either 11% or 12%. After some discussion, the Working Group decided that more information is needed to come to a decision. The group will meet in person on November 30, 2018 in Cambridge, MA to reach a decision.	Open
3. Border Maximum Limit	FMCSA proposed removing the 50% Border Maximum Limit. The Working Group was not able to reach a decision. Many members were uncomfortable removing the maximum completely. There were a few proposals to keep a Maximum Limit, but to increase the percentage. The group will meet in person on November 30, 2018 in Cambridge, MA to come to a decision.	Open



Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group
Meeting Minutes
November 13, 2018

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held an interactive web-based conference call on November 13, 2018. Thomas Liberatore, FMCSA, called the meeting to order at 10:00 a.m. ET.

The following individuals attended the meeting:

MCSAP FORMULA WORKING GROUP MEMBERS*

Lt. Donald Bridge, Jr., Connecticut Department of Motor Vehicles
Caitlin Cullitan, Attorney Advisor, FMCSA
Thomas Fitzgerald, Massachusetts State Police
Adrienne Gildea, Commercial Vehicle Safety Alliance (CVSA)
Thomas Liberatore, Chief, State Programs Division, Designated Federal Officer, FMCSA
Michelle N. Lopez, Colorado State Patrol
Alan R. Martin, Ohio Public Utilities Commission
Dan Meyer, Division Administrator, Illinois Division, FMCSA
Lt. Stephen Brent Moore, Georgia Department of Public Safety
Capt. Brian Preston, Arizona Department of Public Safety
John E. Smoot, Kentucky State Police
Col. Leroy Taylor, South Carolina Department of Public Safety

** Courtney Stevenson, Senior Policy Advisor, FMCSA, was not able to attend.*

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Michael Chang, U.S. DOT, Volpe Center
Dianne Gunther, U.S. DOT, Volpe Center
Tom Keane, Director, Office of Safety Programs, FMCSA
Dana Larkin, U.S. DOT, Volpe Center
Paul Melander, FMCSA
Jacob York, FMCSA

OTHER ATTENDEES

Emily Dinkelacker, DIGITALiBiz

1. Welcome and Objectives

Presentation

Tom Liberatore welcomed the MCSAP Formula Working Group members and other attendees to the meeting. Liberatore provided a brief overview of meeting objectives for the call, which are outlined below:



- Michael Chang, U.S. DOT Volpe Center, will review the new analysis on the Border Component of the MCSAP Formula.
- Tom Liberatore will lead an open discussion on the proposed changes for the Border Component.
- Liberatore will determine if there are any new questions or if any additional information is needed and discuss the next steps for the in-person meeting.

2. Border Component Review

Presentation

Michael Chang began by going over the potential options that were discussed at the last meeting.

- Option 1: Increase the Border Allocation to 11% and raise the Border Maximum to 55%.
 - This suggestion was made by a Working Group member.
- Option 2: Increase the Border Allocation to 11% or 12%, and remove the Border Maximum entirely.
 - This was the proposal made by FMCSA on the October 18th webinar.
- Option 3: Increase the Border Allocation to 11% or 12%, and keep the Border Maximum at 50%.
 - This suggestion accepts FMCSA's Border Allocation proposal, but rejects FM'SA's Border Maximum proposal.
- Option 4: No changes to the original Working Group recommendation (9.5% Border Allocation and 50% Border Maximum).

The purpose of this meeting is to review the new analysis on the Border Component, so that the entire Working Group has all the information necessary to make an informed decision at the in-person meeting.

Chang stated that the Border Maximum is meant to promote stability in response to changes in border activities (e.g., border crossings and ports of entry). FMCSA proposed increasing the Border Maximum to account for how border activity will change in the future, but several Working Group members have held firm that it is also important to maintain a balanced program. If a Border Maximum is implemented, the funding that exceeds the maximum would be reallocated to the other border States with less activity. Although these States do not have as much need, they are still required to conduct border enforcement. A Border Maximum would help States with smaller border programs maintain their current programs.

After the last meeting, the Working Group requested that the Volpe Analysis Team forecast future activity to provide a better understanding of how the Border Maximum will perform over time and impact future funding.

3. New Analysis on Border Component

Presentation

As part of the new analysis, Michael Chang looked at a few different scenarios and metrics



with the goal of understanding the uncertainty in the factors. The metrics used were the percentage of Border Component, specifically the percent of full-time employees (FTE) needed based on the number of border crossings and ports of entry, and the dollar amount. Chang looked at a 5-year historical trend comparing Fiscal Year (FY) 2012 through FY 2017. Using this data, Chang forecasted 10 years ahead, assuming the 5-year trend were to continue.

Michael Chang displayed a graph that showed the total number of border crossings from 1996 to 2017 for both the US-Canada border and the US-Mexico border. The graph displayed an overall increase in border crossings over time. However, traffic across the Southern Border increased at a faster rate than traffic across the Northern Border. There was a dip in border crossings around 2009, which was most likely due to the economic recession.

- Historical trends show border crossings are increasing over time.
- Southern Border traffic is increasing at a faster rate than Northern Border traffic.

Chang displayed another table, showing the percent of FTE needed and the dollar amount that corresponds for each of the Border States in FY 2012 and in FY 2017.

- From FY 2012 to FY 2017, the estimation for FTE on both borders combined increases by about 9%
- Because the Southern Border activity is increasing at a faster rate, 1% of the FTE shifts from the Northern Border to the Southern Border. This change corresponds to approximately \$300,000.

Assuming both Northern and Southern border crossings are increasing, but that the Southern border crossings are increasing at a greater rate, the 10-year forecasts were as follows:

- For Northern Border States, the total percent of FTE needed would be 9%, which corresponds to about \$2,900,000.
- For Southern Border States, the total percent of FTE needed would be 91%, which corresponds to about \$30,000,000.
- Nationally, this puts the total forecasted dollar amount at \$33,000,000, or 11% of total MCSAP funding.

The States with the biggest changes were California and Texas. These changes were greater than 1% over the 5-year period. California's need decreased by 1.8% and Texas's need increased by 4% over the 5-year period. Michael Chang explained that based on these trends, if Texas's need continued to grow like this over the next ten years, they would require 59.4% of the border funding. Chang also explained that while California's border crossings increased over time, one port of entry was closed during the past five years, which would explain the decrease. Michael Chang stated that this was a high-level summary of findings, but more details could be provided if needed.



4. Open Discussion

Tom Liberatore thanked Michael Chang for reviewing the analysis. Liberatore asked the Working Group to think about the following questions when making their decision, keeping in mind the original purpose of the Border Maximum and the new analysis reviewed today:

- What would a balanced border program look like? What should that limit be to ensure funding is available to the smaller Border States?
- Given the historical trends and growth projections presented, is it fair to apply a Border Maximum that is below both the current level of need and anticipated future growth?

A Working Group member stated that given the information that was presented, they would like to modify their original proposal (referred to above as Option 1) to increasing the Border Allocation to 11% and increasing the Border Maximum to 60%. They stated that the reason behind this decision was to ensure that there would be enough funding in the future given the growth projections Michael Chang presented.

- A Working Group member stated there was never going to be “enough funding available.” They stated that they want to stay away from language about giving enough, because the MCSAP program is intended to provide assistance, not the full amount of funding needed.
- Tom Liberatore stated that this was an excellent point and that he agreed with the Working Group on this. Liberatore suggested that when drafting the report after a decision has been made, they revisit the Guiding Principles in order to convey their sentiments. Liberatore asked if anyone else wanted to comment on the revised recommendation to increase the Border Maximum to 60%. He stated that he and Michael Chang would send the complete analysis to everyone after the meeting today.
- A Working Group member asked what the original intent was for the Border Maximum.
 - Liberatore stated that the Border Maximum was to ensure that the smaller Border States that needed access to border funding would have access to those funds to support that activity and that one State would not absorb all of the funding.
 - Another Working Group member reiterated that this was established to protect other States. They stated that there will always be ways to spend money, which is why they believe it is important to have a maximum of some sort. For example, if Texas was able to articulate a need for more than 60%, a cap would ensure that there would still be funding for the other States.
 - A member of the Working Group made the point that if that was the reason that the Working Group originally established a Border Maximum, then why are they trying to raise or remove it?
 - Another Working Group member said it is important to consider the projections now so those protections are in place 10 years from now.
 - Liberatore added that the Agency is concerned about restraining certain States below the current level of activity, even 10 years out.



Liberatore returned to the options that were presented at the beginning of the meeting.

- Option 1: Increase the Border Allocation to 11% and raise the Border Maximum to 55%.
 - A Working Group member also proposed a 60% Border Maximum alternative.
- Option 2: Increase the Border Allocation to 11% or 12%, and remove the Border Maximum entirely.
- Option 3: Increase the Border Allocation to 11% or 12%, and keep the Border Maximum at 50%.
- Option 4: No changes to the original Working Group recommendation (9.5% Border Allocation and 50% Border Maximum).

Liberatore asked at this point if anyone in the Working Group was opposed to making a modification to Border Component based upon the information provided in the last few calls. He asked if anyone was in full support of Option 4, to have no changes at all to the Border Component. He suggested having a conversation about the Border Maximum now, since none of the Working Group members expressed opposition to increasing the Border Allocation to 11% or 12%.

Tom Liberatore polled each of the Working Group members to determine with which of the remaining options the group was most comfortable. Their comments are listed below:

- One Working Group member said they were not opposed to making a change, but they still do not understand how any of the three options would affect the other States. They were not sure if they could commit without looking at the impact on the other States.
 - Another Working Group member said that they looked at these numbers during the last meeting.
 - This is true, but since then the Border Maximum recommendation had changed from 55% to 60%.
 - Liberatore stated that the Border Allocation affects all States, but that the Border Maximum is a percentage of the Border Allocation and therefore only affects the Border States.
 - Liberatore stated that for the Border Allocation to be increased from 9.5% to 11%, this would be a shift of \$1,500,000 away from Non-Border States to Border States. He also reiterated that this deduction of \$1,500,000 would be dispersed between all of the Non-Border States, which comes out to roughly \$45,000.
 - If the Border Allocation were to be increased to 12%, the corresponding dollar amount that would shift from Non-Border to Border States would be \$3,000,000.
 - Liberatore offered to create a summary sheet to make the data easier to read.
 - The Working Group said this would be beneficial.
- Another Working Group member said that after reviewing and listening, they are in favor of a maximum to protect the other States, but would support Option 1. They expressed support for increasing the Border Allocation because of the minimal impact



to Non-Border States, but favor the protection the Border Maximum offers to smaller Border States. They stated they do not have a preference between 55% or 60%.

- One member of the Working Group stated that Option 2, to remove the Border Maximum completely, is not an option for them. They stated they would be in support of Option 1, but with a 55% Border Maximum instead of 60%. If the biggest concern is making sure all Border States have sufficient funding, then there should be more money provided. They stated that they do not need any additional information, but that further discussion would help.
- Another Working Group member stated that they were comfortable with Option 1, to increase Border Allocation to 11% and to increase the Border Maximum to 60% instead of the original 55%, due to the projections Michael Chang presented today. They also agreed with some of the other points made about adding more funding to the MCSAP program, but realize that it is above and beyond their control.
- A Working Group member stated that they were in favor of Option 1 as well. However, they expressed concerns about the Border Maximum being set above 55%. They stated while this is what Texas's projected need is 10 years out that this number could change. They did not want to reinforce the idea that the program gives a State all of the funding that it needs.
- Another Working Group member reminded the Working Group that increasing the Border Maximum to 60% does not necessarily mean that Texas or any other State will get it. Increasing the maximum would provide the opportunity for growth should the formula show that need.
- A Working Group member stated that they do not have strong preference between either 55% or 60%, but they would wonder if they chose the latter what they would unintentionally be reinforcing.
- Liberatore stated that it sounds like the main concern was with messaging. He stated that the Working Group can refer back to the Guiding Principles when putting their recommendations into the report.
- Another Working Group member stated that they are also opposed to Option 2, which would remove the Border Maximum completely. They are completely in agreement with increasing the Border Allocation to 11% and recognize that the Border States took a hit when the Border Grant went away. However, they are also concerned about the message conveyed by increasing the Border Maximum to 60% based on the projections for Texas. They do not have a strong preference between 55% and 60%, but think the points being made about protecting the entire program and not just one jurisdiction are important to consider. They also reiterated that there are other formula factors that consider volume, which will also result in an increase in baseline funding should traffic patterns change. They reiterated that Option 1 is fine, and they will go with either 55% or 60%, depending on how the rest of the Working Group feels.
 - Liberatore reminded everyone that the Working Group's decision will eventually go out for public comment, which will allow another opportunity for individuals to provide feedback.
 - Another Working Group member stated to this point that they do not want to create a formula that does not fit the current need, but that there is a difference when



taking into account projected needs. Therefore they were fine increasing the Border Maximum to 55%.

- One Working Group member stated that each of the States have the opportunity for resource management, and that they can shift around resources to fit their individual needs if something unexpected happens. They are in favor of increasing the Border Allocation to 11%, but they are torn between 55% and 60% for the Border Maximum.
 - One Working Group member suggested changing the Option 1 recommendation back to the original recommendation of 55%.
 - The member of the Working Group that had revised the recommendation earlier stated future projections are important to consider, but that they would not be firmly against increasing the cap to 55%. However, given that it is nearly 2019, and the data is from 2017, it is important to consider the future projections. They said they would be missing the opportunity to take advantage of something that will happen down the road.
- Another Working Group member was in favor of Option 1 to increase Border Allocation to 11% and to increase the Border Maximum to 55% or 60%.
- Two other Working Group members also supported Option 1, to increase Border Allocation to 11%. However, they do not have a strong preference between 55% and 60% for the Border Maximum.

5. Wrap Up

Tom Liberatore asked if anyone in the Working Group thought it was still necessary to meet in-person on November 30. Liberatore stated that everyone seemed to be in favor of Option 1, to increase Border Allocation to 11%, but that they still needed to determine whether the Border Maximum should be increased to 55% or 60%. As for the report, Liberatore stated that they could work internally and propose some wording options to the Working Group. Liberatore stated that they had accomplished a lot on the call today and that the remaining items that need to be discussed could be done with another webinar/call to avoid the expense associated with having to travel to an in-person meeting. A Working Group member expressed concerns over coming up with the correct wording over the phone and stated he believes this would be easier to discuss in person.

Liberatore polled the Working Group to see if anyone thought it was necessary to still meet in person:

- 4 Working Group members were in favor of having an in-person meeting.
- 5 Working Group members were in favor of having a webinar/call instead (some of these members were not able to travel).
- 2 Working Group members were indifferent.
- 1 Working Group member was not present.

Given that some of the Working Group members would not be able to travel for the in-person meeting, Liberatore suggested having a webinar/call instead. Liberatore understands the Working Group's concerns and would allow time to discuss the wording in the report.



Liberatore thanked everyone for the time and stated that they would plan for a webinar meeting the afternoon of November 30, in order to accommodate those on the west coast. Liberatore plans to send out an email with the exact time and will cancel any existing travel reservations.

ACTION ITEMS

Topic	Action Item	Assignment
Next Meeting	The Working Group agreed to have a webinar/call instead of the in-person meeting on November 30, 2018. Tom Liberatore will send an email with additional information.	FMCSA
Additional Data Requests	The Volpe Analysis Team will create a summary sheet of the historical trend/future projections data.	Volpe Analysis Team
Additional Requests	FMCSA will propose a few wording options for the decisions made for the Working Group to review.	FMCSA
Travel Information	Since the in-person meeting was changed to a webinar/call, the Working Group can cancel their travel requests.	FMCSA/ Working Group

PRESENTATIONS

	Presenter(s)	Presentation
1	Michael Chang and Thomas Liberatore	MCSAP Formula Working Group November 13, 2018 Webinar

SUMMARY OF DECISIONS

The Working Group reviewed and discussed additional analysis and is coming closer to finding a solution for the Border Component of the MCSAP Formula that satisfies their Guiding Principles. The Working Group agreed to raise the Border Allocation from 9.5% to 11%. The Working Group has decided not to meet in-person on November 30, but instead to have another call that same day to discuss whether the Border Maximum Limit should be increased to 55% or 60%. During this call, the Working Group will also begin to discuss the wording for the report.



Issue	Decision	Status
1. Territory Allocation	FMCSA proposed changing the Territory Allocation from 0.65%, as recommended by the Working Group, to 0.49%. The Working Group agreed with this proposed alternative.	Closed 10/18/2018
2. Border Allocation	The Working Group agreed to raise the Border Allocation from 9.5% to 11%.	Closed 11/13/2018
3. Border Maximum Limit	The Working Group is in favor of keeping a Border Maximum, but is open to increasing it from 50% to either 55% or 60%. The Working Group will discuss this further at the next call slated for November 30.	Open



Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group
Meeting Minutes
November 30, 2018

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held an interactive web-based conference call on November 30, 2018. Thomas Liberatore, FMCSA, called the meeting to order at 12:30 p.m. ET.

The following individuals attended the meeting:

MCSAP FORMULA WORKING GROUP MEMBERS

Lt. Donald Bridge, Jr., Connecticut Department of Motor Vehicles
Caitlin Cullitan, Attorney Advisor, FMCSA
Thomas Fitzgerald, Massachusetts State Police
Adrienne Gildea, Commercial Vehicle Safety Alliance (CVSA)
Thomas Liberatore, Chief, State Programs Division, Designated Federal Officer, FMCSA
Michelle N. Lopez, Colorado State Patrol
Alan R. Martin, Ohio Public Utilities Commission
Dan Meyer, Division Administrator, Illinois Division, FMCSA
Lt. Stephen Brent Moore, Georgia Department of Public Safety
Capt. Brian Preston, Arizona Department of Public Safety
John E. Smoot, Kentucky State Police
Courtney Stevenson, Senior Policy Advisor, FMCSA
Col. Leroy Taylor, South Carolina Department of Public Safety

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Michael Chang, U.S. DOT, Volpe Center
Dianne Gunther, U.S. DOT, Volpe Center
Tom Keane, Director, Office of Safety Programs, FMCSA
Jack Kostelnik, FMCSA
Dana Larkin, U.S. DOT, Volpe Center
Julianne Schwarzer, U.S. DOT, Volpe Center

OTHER ATTENDEES

Emily Dinkelacker, DIGITALiBiz

1. Welcome and Objectives

Presentation

Tom Liberatore welcomed the MCSAP Formula Working Group members and other attendees to the meeting. Liberatore provided a brief overview of meeting objectives for the call, which are outlined below:



- Michael Chang, U.S. DOT Volpe Center, will summarize the Working Group's previous decisions.
- Tom Liberatore will lead an open discussion on the Border Maximum and whether it should be increased to 55% or 60%.
- Michael Chang and Dianne Gunther, U.S. DOT Volpe Center, will review the draft addendum they sent the Working Group prior to this meeting. At this time, the Working Group is welcome to provide feedback.
- Liberatore will review the next steps for compiling the final report and memorializing the changes.

2. Review of Working Group Decisions

Presentation

Michael Chang stated he would review the Working Group's decisions thus far to provide a refresher for everyone.

- Decision 1: The Working Group agreed to increase the Border Allocation from 9.5% to 11%.
- Decision 2: The Working Group agreed to keep a Border Maximum. However, it is still unclear whether or not it will be increased to 55% or 60%.
- Decision 3: The Working Group agreed to reduce the Territory Allocation from 0.65% to 0.49%.

3. Open Discussion on Border Maximum Limit

Presentation

The Border Maximum is the only outstanding decision. To recap, the historical trend analysis showed border activity is increasing overall and at a faster rate on the Southern Border compared to the Northern Border. The simulations that were pulled together by the Volpe Analysis Team used the border formula to look at financial need. The primary focus was Texas, as it is the only State to which the Border Maximum would apply for the current and foreseeable future. Texas's need based on border activity was almost 55% in 2017 and is forecasted to be 59.4% in 2027.

Michael Chang stated that since the last time the Working Group met the Volpe Analysis Team had conducted some additional analysis that looked at the short-term and long-term funding impacts.

- Short Term:
 - There would be no difference between 55% and 60% for the Border Maximum, because Texas would only need 55%.
- Long Term:
 - The additional 5% from increasing the Border Maximum to 60% rather than 55% would equate to \$1,670,000 (5% of the 11% Border Allocation).
 - The Border Maximum relates to the distribution of funds within Border Allocation. Therefore, the maximum does not affect Non-Border States.



Chang stated he would be happy to provide more information if the Working Group would like to see anything else.

Discussion

Michael Chang opened up the discussion on Border Maximum. Julianne Schwarzer, U.S. DOT Volpe Center, suggested that those who had strong opinions start the discussion because there has been a number of Working Group members that stated they were indifferent on the topic.

- The Working Group asked a clarifying question regarding the language of the Border Maximum that had been drafted by Volpe and FMCSA team members.
 - Tom Liberatore asked that they hold their questions regarding the draft document until later in the meeting when they can all review it together.
- Tom Liberatore stated that in the prior meeting, a few members of the Working Group felt strongly about 60%, while a few felt strongly about 55%, and most were indifferent. However, at this stage he thinks the Working Group should voice support for either 55% or 60%, rather than offering up no opinion. He stated that the two biggest considerations are Texas's forecasted need, and making sure that the Working Group is comfortable with the number.
- The Working Group made the following comments:
 - The Working Group overall felt that the Border Maximum should be increased to 55% instead of 60% because they were more comfortable being conservative.
 - A Working Group member commented that if need does increase past the maximum in later years, there should be a comment in the report that enables more funding to be applied.
 - Another Working Group member reminded everyone that border funding has already been increased by the Working Group's decision to raise the Border Allocation from 9.5% to 11%. They stated that this is an assistance program. It is not intended to pay every bill. While border safety is important, there are other activities that the formula supports that are also important. They also have concerns that the jurisdictions will become dependent solely on the funding provided by the formula, which is not the formula's purpose.
 - A Working Group member stated that just because one State needs more money, does not mean they should be able to take money away from other States.

Tom Liberatore closed the issue as the entire Working Group agreed to raise the Border Maximum from the original recommendation of 50% to 55%.

Decision: The Border Maximum will be raised to 55%.

4. Review Draft Addendum

Approach

Tom Liberatore stated that the approach was to add an addendum to the Working Group's original report. In prior meetings, everyone seemed to feel that this approach was the most transparent. The Working Group agreed that they wanted to recognize the fact that they



completed their original task, and the addendum is in response to additional questions the Agency wanted to address. Liberatore asked if anyone had concerns with this approach to which the Working Group stated that they did not.

Michael Chang stated that the addendum was broken into the following sections: executive summary; background; process, Border Allocation percentage; Border Maximum; and Territory Allocation. The addendum is written in a chronological way to be as clear as possible on the process. He stated that he would walk through section by section, give a brief overview, and then allow the Working Group to make any comments as they reviewed the document together.

- A member of the Working Group asked if this addendum to the Working Group's original report would indicate which recommendations had been revised.
 - Suggestions for how to achieve this included:
 - A version history sheet in the beginning of the document.
 - Reproducing the table of recommendations from the Working Group's original report in the addendum. This would allow for a final version of recommendations in one place.
 - An errata sheet. This would be an easy way to highlight the changes at the beginning of the document. The errata sheet will indicate that the original document was amended and provide a list of the changes made.

Background

The background section of the addendum addresses how the Working Group completed the original recommendations. It also outlines FMCSA's review and response to the recommendations, including the request to address new developments, which are the Territory Allocation, the Border Allocation, and the Border Maximum.

Chang opened up the discussion.

- A member of the Working Group stated that they like this approach and feel that the addendum is well written and accurately and succinctly captures the discussion, the process, and the new recommendations.

Chang walked everyone through a table that contained the Working Group's original recommendations, FMCSA's proposed changes, and the rationale behind the proposal. He noted that this table is where the discussion began, not what was ultimately agreed upon.

Table 1. FMCSA's Proposed Changes to MCSAP Formula Working Group's Recommendations

Topic	Initial Working Group Recommendation	FMCSA Proposal	FMCSA Rationale
Border Allocation	9.5% of total MCSAP funds should be allocated to border States through a component of the formula that specifically focuses on the funding needs of border activities.	Increase 9.5% to either 11% or 12%.	• 11% would maintain current Federal funding levels. • Recent policy changes, including the renegotiation of trade agreements, may



Topic	Initial Working Group Recommendation	FMCSA Proposal	FMCSA Rationale
			lead to changes in border activity. • Overall funding aligns with crash risk whether border funding is increased to 11% or 12%. • Border activity has increased in recent years.
Border Maximum Limit	Apply minimum and maximum limits—each border State should receive no less than 0.075% and no more than 50% of the Border Component of MCSAP funding.	Remove the 50% maximum limit.	• It puts unnecessary restrictions on border funding. • The largest border programs require more funding, and removing the maximum allows for greater flexibility if border activity shifts over time.
Territory Allocation	0.65% of total MCSAP funds should be allocated by FMCSA to support and develop CMV safety activities and programs within the Territories (Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa).	Reduce 0.65% to 0.49% of total MCSAP funds	• 0.65% is too high considering current Territory CMV safety needs. 0.49% would maintain current funding levels, and allow for sufficient growth in future years.

Process Section

The process section of the addendum emphasizes that this was an iterative process and that the group met via phone on 4 different occasions.

Tom Liberatore suggested changing the language from “conference call” to “interactive web conferences.” He stated that he felt it important to show that it was not just a call, but that it was over the web and very interactive.

Liberatore suggested editing the document now using track changes and sending this revised version out to the Working Group after the meeting.

Border Allocation

I. Rationale

Chang reviewed the rationale behind FMCSA’s proposal. He reminded the Working Group that given the new trade agreements and the uncertainty surrounding how these will affect the traffic patterns, and the government-wide focus on human trafficking, that the Agency felt the Border Allocation should be increased to allow current Federal funding levels to be maintained. He



added that while human trafficking prevention is not a MCSAP requirement, there is some synergy between that and CMV border safety.

Chang also explained how the Volpe Analysis Team looked at projected funding and found that despite the increases in overall funding, some States were still receiving less under the proposed formula. He also stated that going back to the Guiding Principles, there is still a correlation to crash risk, and therefore the proposed increase would not interfere with the core principle of safety.

Chang stated under the proposed 9.5% Border Allocation, while current funding levels would be matched, 15% of this would have to come from the States. Whereas, by increasing the amount to 11% maintained the current funding of \$32,000,000, all from Federal funding.

II. Impact Analysis

In the short term, the hold harmless clause prevents funds from shifting dramatically. Therefore, the magnitude in the short term is \$1,670,000. In the long term, the impact is \$4,500,000, once the hold harmless clause does its job. However, Chang reminded everyone that there are 37 non-border States and 15 border States. Increasing the Border Allocation shifts funding from non-border States to border States.

III. Working Group Decision:

Michael Chang then went over the decision that had been reached.

A member of the Working Group expressed concerns that the paragraph overstates the Working Group's enthusiasm for making this decision. They would like to see the language dialed back. They requested that the line "important to not reduce Federal aid for border enforcement at a time of increasing border activity" be changed to "was appropriate to maintain previous Federal funding levels." The current language could lead readers to wonder why the Working Group had not reached this decision the first time around. No one disagreed with this rewording and other Working Group members offered their support.

Working Group members suggested some minor additional wording changes in this section, and Michael Chang reiterated that this is the Working Group's document and they will make any changes that the Working Group feels necessary.

Border Maximum

I. Rationale

Michael Chang reiterated FMCSA's proposal, stating that the current maximum of 50% does not meet the growing needs of the State with the most border activity.

II. Impact Analysis

Chang pointed out that the Border Maximum is only part of the Border Component. Therefore, it only affects border States, once the Border Allocation is decided. Chang added that the additional 5% that would be awarded by raising the Border Maximum from 50% to 55%, would



have minimal impacts on most of the States. He then walked through some State-by-State examples.

In the short term, the largest border increase is projected to be \$1,270,000. However, the other border States only see small decreases, and only three States are forecasted to see a decrease when also considering the 11% Border Allocation. In the short term, there is a shift of \$280,000 from non-border States to border States because of the hold harmless clause. However, this is only for the first year.

In the long term, non-border States see no change.

- The Working Group stated that the Border Allocation should not be greater than 11% in the first year. The Border Maximum then should not be taking funding away from non-border States.
- A Working Group member said to clarify, after the 11% is applied, as well as everything else, the hold harmless clause then goes into effect, and at that point the excess funds are not considered “Border” or “Basic” anymore.
- A Working Group member then stated that the language suggests that something that should not affect non-border States is affecting them.
- Liberatore stated that this paragraph needs some work. The team will work on this paragraph and send out a new version early next week.

Chang then walked through two tables that showed the combined impact of increasing the Border Allocation and the Border Maximum on each individual State. Chang stated that most States do not change at all because of the hold harmless clause. He also stated that for most of the States that were impacted, the difference was \$100,000 or less in the short term.

- A Working Group member stated that it was good to see a table that depicts the funding impacts. However, they asked if there is no change to label it as “no change” rather than showing an empty cell. They stated that this would be an effective way to emphasize to readers that so many States face no changes.

III. Working Group Decision

Chang filled in the recommendation with the proper amount that the Working Group decided on today. He asked the Working Group if they think the language in this section is sufficient. The Working Group agreed that it is sufficient.

Territory Allocation

Michael Chang acknowledged that during these meetings the Territory Allocation was discussed first; in the original report they appeared in this order.

I. Rationale

Chang stated that FMCSA had looked at the Territory’s needs, and also added 25% as a cushion for growth, and found that the current funding levels do adequately address CMV safety needs. FMCSA decided to keep the Territory Allocation as a percentage so that it can grow if needed.



- A Working Group member stated that part of the reason the Working Group agreed to lower the Territory Allocation is because the data showed that the current Territories funding levels are adequate. They suggested adding the historic spend rate to the addendum in order to show why the Agency suggested this change.
- Tom Liberatore stated that the team would revise the language in the addendum so that it did not appear that the Territory Allocation was lowered unjustly.

II. Impact Analysis

Michael Chang stated that overall the funding shift from changing the Territory Allocation from 0.65% to 0.49% equated to \$486,000, or an average of \$9,000 per State. He reminded the Working Group that the new formula rates population at 50%. The table included shows the impact of this shift for all four Territories.

III. Working Group Decision

The Working Group agreed with FMCSA's proposed change to the Territory Allocation percentage.

Executive Summary

Michael Chang then reviewed the executive summary at the beginning of the document. He stated that this provides the highlights of the addendum, so that the reader can see all the changes without having to go through the entire document. He stated that it summarizes what is being changed.

5. Wrap Up

Michael Chang asked the Working Group if they wanted FMCSA to send out the whole package, including cover sheets. Tom Liberatore stated that they need to include the cover sheet and the errata sheet, which would both align with the format in the Working Group's original report.

Tom Liberatore reviewed the proposed schedule and action items for the entire group. The Working Group will receive the original report, the addendum, and the errata sheet. The schedule is aggressive, but doable. The goal is to have the report completed before the New Year because it will reinforce an expeditious review.

A Working Group member asked where the addendum would live and if would be on a publicly accessible website. Tom Liberatore stated that he expects the report and addendum would be on a publicly accessible website and that the content of the Working Group's recommendations would be incorporated into the 49 CFR Part 350 rulemaking. He said the report and addendum will likely be shared simultaneously and that people would be able to see the report and compare the two. Jack Kostelnik noted that the report and addendum will most likely be added to the Federal docket.



A Working Group member suggested having one final table of all the recommendations, indicating which recommendations were revised. The other Working Group members supported this idea.

Tom Liberatore stated that the FMCSA Team and Volpe Analysis Team would work on making these changes today and hopefully get the revised draft addendum out for the Working Group's review by Monday at the latest. He stated he would send out a schedule detailing how to finish this process. He thanked everyone for their participation and their valuable feedback.

ACTION ITEMS

Topic	Action Item	Assignment	Due Date
Draft Addendum	The Volpe Analysis Team and FMCSA will work to revise the draft addendum based on the conversations had with the Working Group today.	FMCSA/ Volpe Analysis Team	11/30/18
Draft Addendum	The Working Group will respond to the latest version of the draft addendum.	Working Group	12/5/18
Draft Addendum	The Volpe Analysis Team will incorporate the comments from the Working Group and review with FMCSA.	FMCSA/ Volpe Analysis Team	12/12/18
Final Addendum	The final addendum will be sent to the Working Group for final approval.	Working Group	12/19/18
Final Report	The final report will go through the 508-compliance process and will be ready to publish.	FMCSA	12/21/18



PRESENTATIONS

	Presenter(s)	Presentation
1	Michael Chang and Thomas Liberatore	MCSAP Formula Working Group November 30, 2018 Webinar

SUMMARY OF DECISIONS

During this interactive web conference, the Working Group decided to keep a Border Maximum and to increase the maximum from 50% to 55%. Below is a summary of the three revised recommendations at the Agency's request.

Issue	Decision	Status
1. Territory Allocation	The Working Group agreed to decrease the Territory Allocation from 0.65% to 0.49%.	Closed
2. Border Allocation	The Working Group agreed to raise the Border Allocation from 9.5% to 11%.	Closed
3. Border Maximum Limit	The Working Group agreed to increase the Border Maximum from 50% to 55%.	Closed