

involved fatal accidents, CMV fatal accident rate, or meeting specified CMV safety program performance criteria.

Large truck means a truck over 10,000 pounds gross vehicle weight rating including single unit trucks and truck tractors (FARS definition).

Motor carrier means a for-hire motor carrier or private motor carrier. The term includes a motor carrier's agents, officers, or representatives responsible for hiring, supervising, training, assigning, or dispatching a driver or concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories or both.

New Entrant Funds means funds provided to State and local governments to conduct safety audits on New Entrant motor carriers under the New Entrant Safety Assurance Program.

North American Standard Inspection means the methodology used by State CMV safety inspectors to conduct safety inspections of CMVs. This consists of various levels of inspection of the vehicle or driver or both. The inspection criteria are developed by the FMCSA in conjunction with the Commercial Vehicle Safety Alliance (CVSA), an association of States, Canadian Provinces, and Mexico whose members agree to adopt these standards for inspecting CMVs in their jurisdiction.

Operating authority means the registration required by 49 U.S.C. 13902, 49 CFR part 365, 49 CFR part 368, and 49 CFR 392.9a.

[65 FR 15102, Mar. 21, 2000, as amended at 71 FR 50866, Aug. 28, 2006; 72 FR 36769, July 5, 2007]

§ 350.107 What jurisdictions are eligible for MCSAP funding?

All of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands are eligible to receive MCSAP grants directly from the FMCSA. For purposes of this subpart, all references to "State" or "States" include these jurisdictions.

§ 350.109 What are the national program elements?

The national program elements include the following five activities:

- (a) Driver/vehicle inspections.
- (b) Traffic enforcement.
- (c) Compliance reviews.
- (d) Public education and awareness.
- (e) Data collection.

§ 350.111 What constitutes traffic enforcement for the purpose of the MCSAP?

Traffic enforcement means enforcement activities of State or local officials, including the stopping of vehicles operating on highways, streets, or roads for moving violations of State or local motor vehicle or traffic laws (e.g., speeding, following too closely, reckless driving, improper lane changes).

[72 FR 36769, July 5, 2007]

Subpart B—Requirements for Participation

§ 350.201 What conditions must a State meet to qualify for Basic Program Funds?

Each State must meet the following twenty-two conditions:

- (a) Assume responsibility for improving motor carrier safety and adopting and enforcing State safety laws and regulations that are compatible with the FMCSRs (49 CFR parts 390-397) and the HMRs (49 CFR parts 107 (subparts F and G only), 171-173, 177, 178 and 180), except as may be determined by the Administrator to be inapplicable to a State enforcement program.
- (b) Implement performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of CMV safety programs.
- (c) Designate, in its State Certification, the lead State agency responsible for implementing the CVSP.
- (d) Ensure that only agencies having the legal authority, resources, and qualified personnel necessary to enforce the FMCSRs and HMRs or compatible State laws or regulations are assigned to perform functions in accordance with the approved CVSP.
- (e) Allocate adequate funds for the administration of the CVSP including the enforcement of the FMCSRs, HMRs, or compatible State laws or regulations.
- (f) Maintain the aggregate expenditure of funds by the State and its political subdivisions, exclusive of Federal

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funds, for CMV safety programs eligible for funding under this part, at a level at least equal to the average level of expenditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year.

(g) Provide legal authority for a right of entry and inspection adequate to carry out the CVSP.

(h) Prepare and submit to the FMCSA, upon request, all reports required in connection with the CVSP or other conditions of the grant.

(i) Adopt and use the reporting standards and forms required by the FMCSA to record work activities performed under the CVSP.

(j) Require registrants of CMVs to declare, at the time of registration, their knowledge of applicable FMCSRs, HMRs, or compatible State laws or regulations.

(k) Grant maximum reciprocity for inspections conducted under the North American Standard Inspection through the use of a nationally accepted system that allows ready identification of previously inspected CMVs.

(l) Conduct CMV size and weight enforcement activities funded under this program only to the extent those activities do not diminish the effectiveness of other CMV safety enforcement programs.

(m) Coordinate the CVSP, data collection and information systems, with State highway safety programs under title 23 United States Code (U.S.C.).

(n) Ensure participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section.

(o) Ensure information is exchanged with other States in a timely manner.

(p) Emphasize and improve enforcement of State and local traffic laws and regulations related to CMV safety.

(q) Promote activities in support of the national program elements listed in §350.109, including the following three activities:

(1) Activities aimed at removing impaired CMV drivers from the highways through adequate enforcement of restrictions on the use of alcohol and controlled substances and by ensuring

ready roadside access to alcohol detection and measuring equipment.

(2) Activities aimed at providing an appropriate level of training to MCSAP personnel to recognize drivers impaired by alcohol or controlled substances.

(3) Interdiction activities affecting the transportation of controlled substances by CMV drivers and training on appropriate strategies for carrying out those interdiction activities.

(r) Enforce requirements relating to the licensing of CMV drivers, including checking the status of commercial drivers' licenses (CDL).

(s) Establish a program to ensure that accurate, complete, and timely motor carrier safety data are collected and reported, and ensure the State's participation in a national motor carrier safety data correction system prescribed by FMCSA.

(t)(1) Enforce registration (i.e., operating authority) requirements under 49 U.S.C. 13902, 49 CFR part 365, 49 CFR part 368, and 49 CFR 392.9a by prohibiting the operation of (i.e., placing out of service) any vehicle discovered to be operating without the required operating authority or beyond the scope of the motor carrier's operating authority.

(2) Enforce financial responsibility requirements under 49 U.S.C. 13906, 31138, 31139, and 49 CFR part 387.

(u) Adopt and maintain consistent, effective, and reasonable sanctions for violations of CMV, driver, and hazardous materials regulations.

(v) Ensure that MCSAP agencies have policies that stipulate roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.

(w) Include in the training manual for the licensing examination to drive a CMV and the training manual for the licensing examination to drive a non-CMV information on best practices for driving safely in the vicinity of non-CMVs and CMVs.

(x) Conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors.

(y) Except in the case of an imminent or obvious safety hazard, ensure that an inspection of a vehicle transporting

passengers for a motor carrier of passengers is conducted at a station, terminal, border maintenance facility, destination, or other location where a motor carrier may make a planned stop.

[65 FR 15102, Mar. 21, 2000, as amended at 67 FR 55165, Aug. 28, 2002; 67 FR 61820, Oct. 2, 2002; 71 FR 50866, Aug. 28, 2006; 72 FR 36769, July 5, 2007]

§ 350.203 [Reserved]

§ 350.205 How and when does a State apply for MCSAP funding?

(a) The lead agency, designated by the Governor, must submit the State's CVSP to the Motor Carrier State Director, FMCSA, on or before August 1 of each year.

(b) This deadline may, for good cause, be extended by the State Director for a period not to exceed 30 calendar days.

(c) For a State to receive funding, the CVSP must be complete and include all required documents.

§ 350.207 What response does a State receive to its CVSP submission?

(a) The FMCSA will notify the State, in writing, within 30 days of receipt of the CVSP whether:

(1) The plan is approved.

(2) Approval of the plan is withheld because the CVSP does not meet the requirements of this part, or is not adequate to ensure effective enforcement of the FMCSRs and HMRs or compatible State laws and regulations.

(b) If approval is withheld, the State will have 30 days from the date of the notice to modify and resubmit the plan.

(c) Disapproval of a resubmitted plan is final.

(d) Any State aggrieved by an adverse decision under this section may seek judicial review under 5 U.S.C. chapter 7.

§ 350.209 How does a State demonstrate that it satisfies the conditions for Basic Program funding?

(a) The Governor, the State's Attorney General, or other State official specifically designated by the Governor, must execute a State Certification as described in § 350.211.

(b) The State must submit the State Certification along with its CVSP, and

supplement it with a copy of any State law, regulation, or form pertaining to CMV safety adopted since the State's last certification that bears on the items contained in § 350.201 of this subpart.

§ 350.211 What is the format of the certification required by § 350.209?

The State's certification must be consistent with the following content:

I (name), (title), on behalf of the State (or Commonwealth) of (State), as requested by the Administrator as a condition of approval of a grant under the authority of 49 U.S.C. 31102, as amended, do hereby certify as follows:

1. The State has adopted commercial motor carrier and highway hazardous materials safety rules and regulations that are compatible with the FMCSRs and the HMRs.

2. The State has designated (name of State CMV safety agency) as the lead agency to administer the CVSP for the grant sought and (names of agencies) to perform defined functions under the plan. These agencies have the legal authority, resources, and qualified personnel necessary to enforce the State's commercial motor carrier, driver, and highway hazardous materials safety laws or regulations.

3. The State will obligate the funds or resources necessary to provide a matching share to the Federal assistance provided in the grant to administer the plan submitted and to enforce the State's commercial motor carrier safety, driver, and hazardous materials laws or regulations in a manner consistent with the approved plan.

4. The laws of the State provide the State's enforcement officials right of entry and inspection sufficient to carry out the purposes of the CVSP, as approved, and provide that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Standard Inspection procedure, through the use of a nationally accepted system allowing ready identification of previously inspected CMVs.

5. The State requires that all reports relating to the program be submitted to the appropriate State agency or agencies, and the State will make these reports available, in a timely manner, to the FMCSA on request.

6. The State has uniform reporting requirements and uses FMCSA designated forms for record keeping, inspection, and other enforcement activities.

7. The State has in effect a requirement that registrants of CMVs declare their knowledge of the applicable Federal or State CMV safety laws or regulations.

8. The State must maintain the average aggregate expenditure of the State and its political subdivisions, exclusive of Federal