

### § 350.315

made available to State and local governments. If the Administrator determines that a State or local government is not able to use government employees to conduct New Entrant motor carrier audits, the Administrator may use the funds under paragraph (a)(2) to conduct audits for such State or local governments.

[65 FR 15102, Mar. 21, 2000, as amended at 72 FR 36770, July 5, 2007]

#### § 350.315 How may Basic Program Funds be used?

Basic Program Funds may be used for any eligible activity or item consistent with §§ 350.309 and 350.311.

#### § 350.317 What are Incentive Funds and how may they be used?

Incentive Funds are monies, in addition to Basic Program Funds, provided to States that achieve reduction in CMV-involved fatal accidents, CMV fatal accident rate, or that meet specified CMV safety performance criteria. Incentive Funds may be used for any eligible activity or item consistent with §§ 350.309 and 350.311.

#### § 350.319 What are permissible uses of High Priority Activity Funds?

(a) The FMCSA may generally use these funds to support, enrich, or evaluate State CMV safety programs and to accomplish the five objectives listed below:

(1) Implement, promote, and maintain national programs to improve CMV safety.

(2) Increase compliance with CMV safety regulations.

(3) Increase public awareness about CMV safety.

(4) Provide education on CMV safety and related issues.

(5) Demonstrate new safety related technologies.

(b) These funds will be allocated, at the discretion of the FMCSA, to States, local governments, and other organizations that use and train qualified officers and employees in coordination with State safety agencies.

(c) The FMCSA will notify the States when such funds are available.

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(d) The Administrator may set aside an amount of MCSAP funding up to the maximum allowed by law for these projects and activities in each fiscal year.

(e) FMCSA will reimburse up to 80 percent of the eligible costs in the administration of an approved project plan, except that approved public information and education activities may be reimbursed up to 100 percent of the eligible costs.

[65 FR 15102, Mar. 21, 2000, as amended at 72 FR 36771, July 5, 2007]

#### § 350.321 What are permissible uses of New Entrant Funds?

(a) These funds may be used to conduct safety audits on New Entrant motor carriers under the New Entrant Safety Assurance Program.

(b) New Entrant funds will be allocated, at the discretion of FMCSA, to State and local governments.

(c) FMCSA will notify States when such funds are available.

(d) The Administrator may designate up to the maximum amount allowed by law of MCSAP funding for these projects in each fiscal year. FMCSA will reimburse up to 100 percent of the eligible costs in the administration of an approved project plan.

[72 FR 36771, July 5, 2007]

#### § 350.323 What criteria are used in the Basic Program Funds allocation?

(a) The funds are distributed proportionally to the States using the following four, equally weighted (25 percent), factors.

(1) 1997 Road miles (all highways) as defined by the FMCSA.

(2) All vehicle miles traveled (VMT) as defined by the FMCSA.

(3) Population—annual census estimates as issued by the U.S. Census Bureau.

(4) Special fuel consumption (net after reciprocity adjustment) as defined by the FMCSA.

(b) Distribution of Basic Program Funds is subject to a maximum and minimum allocation as illustrated in the Table to this section, as follows:

TABLE TO § 350.323(b)—BASIC PROGRAM FUND ALLOCATION LIMITATIONS

Recipient	Maximum allocation	Minimum allocation
States and Puerto Rico ...	4.944% of the Basic Program Funds .....	\$350,000 or 0.44% of Basic Program Funds, whichever is greater.
U.S. Territories .....		\$350,000 (fixed amount)

**§ 350.325 [Reserved]**

**§ 350.327 How may States qualify for Incentive Funds?**

(a) A State may qualify for Incentive Funds if it can demonstrate that its CMV safety program has shown improvement in any or all of the following five categories:

- (1) Reduction of large truck-involved fatal accidents.
- (2) Reduction of large truck-involved fatal accident rate or maintenance of a large truck-involved fatal accident rate that is among the lowest 10 percent of such rates of MCSAP recipients.
- (3) Upload of CMV accident reports in accordance with current FMCSA policy guidelines.
- (4) Verification of CDLs during all roadside inspections.
- (5) Upload of CMV inspection data in accordance with current FMCSA policy guidelines.

(b) Incentive Funds will be distributed based upon the five following safety and program performance factors:

(1) Five shares will be awarded to States that reduce the number of large truck-involved fatal accidents for the most recent calendar year for which data are available when compared to the 10-year average number of large truck-involved fatal accidents ending with the preceding year. The 10-year average will be computed from the number of large truck-involved fatal crashes, as reported by the FARS, administered by the National Highway Traffic Safety Administration (NHTSA).

(2) Four shares will be awarded to States that reduce the fatal-accident rate for the most recent calendar year for which data are available when compared to each State's average fatal accident rate for the preceding 10-year period. States with the lowest 10 percent of accident rates in the most re-

cent calendar year for which data are available will be awarded three shares if the rate for the State is the same as its average accident rate for the preceding 10-year period.

(3) Two shares will be awarded to States that upload CMV accident data within FMCSA policy guidelines.

(4) Two shares will be awarded to States that certify their MCSAP inspection agencies have departmental policies that stipulate CDLs are verified, as part of the inspection process, through Commercial Driver's License Information System (CDLIS), National Law Enforcement Tracking System (NLETS), or the State licensing authority.

(5) Two shares will be awarded to States that upload CMV inspection reports within current FMCSA policy guidelines.

(c) The total of all States' shares awarded will be divided into the dollar amount of Incentive Funds available, thereby establishing the value of one share. Each State's incentive allocation will then be determined by multiplying the State's percentage participation in the formula allocation of Basic Program Funds, by the number of shares it received that year, multiplied by the dollar value of one share.

(d) States may use Incentive Funds for any eligible CMV safety purpose.

(e) Incentive Funds are subject to the same State matching requirements as Basic Program Funds.

(f) A State must annually certify compliance with the applicable incentive criteria to receive Incentive Funds. A State must submit the required certification as part of its CVSP or as a separate document.

**§ 350.329 How may a State or local agency qualify for High Priority or Border Activity Funds?**

(a) States must meet the requirements of § 350.201, as applicable.