

MEMORANDUM

Subject: Tailoring Fiscal Year 2023 Commercial Vehicle Safety Plans to Support National Safety Goals

From: Darrell L. Ruban
Associate Administrator for Safety

Date: August 10, 2022

To: Regional Field Administrators, Field Administrators,
Division Administrators, State Program Managers, and
State Program Specialists

Reply to MC-S
Attn. of:

► Introduction

Purpose

Following the release of the *Development of Fiscal Year 2023 Commercial Vehicle Safety Plans* memo dated June 15, 2022, the Federal Motor Carrier Safety Administration (FMCSA) received questions regarding how commercial motor vehicle (CMV) safety activities should be adjusted given the historic funding increase in the Bipartisan Infrastructure Law (BIL). In response, this document provides additional guidance and examples that Motor Carrier Safety Assistance Program (MCSAP) lead agencies should use in preparing their Fiscal Year (FY) 2023 Commercial Vehicle Safety Plans (CVSPs), using the online eCVSP tool. Division Administrators should share this supplemental information with their MCSAP lead agencies upon receipt. Applicants are encouraged to read the entire document carefully, as it contains additional information regarding the safety activities that should be reflected in the CVSPs.

Planning for FY 2023: Unprecedented Funding to Drive Transformative Change

As previously discussed, the BIL is a once-in-a-generation investment in our infrastructure and safety programs. It promotes and supports investments and partnerships that enable technologies, data systems, research, workforce development and expansion to directly impact the safety of people using our transportation systems. It contains over \$3.2 billion in overall FMCSA grant funding over five years, providing opportunities for FMCSA and our State partners to develop and implement transformative changes to achieve the U.S. Department of Transportation's (USDOT) safety goal of zero fatalities on the Nation's roadways.

During the MCSAP Planning Meeting we shared that in the years to come, MCSAP lead agencies will be able to grow existing programs and develop new ones aimed at reducing commercial motor vehicle (CMV) related crashes and fatalities. With these additional resources come both an opportunity and an obligation to ensure that FMCSA and the States are doing everything we can to improve the safety of motor carriers, CMVs, and drivers on our roadways and implement the national transportation safety strategies that galvanize these critical efforts.

All CVSP submissions will continue to be considered based on the MCSAP national program elements established in 49 CFR § 350.203. This memo provides guidance on the areas of emphasis that MCSAP lead agencies should strongly consider for their FY 2023 programming.

It is important for MCSAP recipients to carefully review the components in the USDOT 2022-2026 Strategic Plan, and in particular the Department's National Roadway Safety Strategy (NRSS), in order to align grant funded activities with the safety focuses of the Department and FMCSA. MCSAP recipients should also use localized and current data to assess the causes of crashes and fatalities and tailor interventions accordingly.

The NRSS may be found at: <https://www.transportation.gov/sites/dot.gov/files/2022-02/USDOT-National-Roadway-Safety-Strategy.pdf>

The DOT Strategic Plan may be found at: <https://www.transportation.gov/mission/us-dot-strategic-plan-fy-2022-2026>

In addition to these core safety priorities, the Office of Management and Budget issued guidance on April 29, 2022, in support of Executive Order 14052, directing all executive branch agencies to focus on effective stewardship of Federal dollars and ensure that the utilization of measurable outcomes benefiting the American people are in effect for grant recipients.

How MCSAP Lead Agencies Can Support the National Roadway Safety Strategy (NRSS)

The DOT NRSS is a comprehensive plan to work with stakeholders across the country to significantly reduce injuries and deaths on America's roadways using a safe systems approach. This approach lowers risks by building in multiple layers of protection: safer roads, safer people, safer vehicles, safer speeds, and better post-crash care.

MCSAP lead agencies play a critical role in the success of the NRSS through the effective implementation of the MCSAP elements established in 49 CFR Part 350. This supplemental guidance supports the priorities originally established in the June 15, 2022, Planning Memorandum, and provides MCSAP lead agencies with additional information on ways to connect their CMV safety activities to the objectives in the NRSS and priorities outlined in the BIL.

National Safety Emphasis – Implementation of the National Roadway Safety Strategy

The safe systems approach identified in the NRSS directly supports the overall objective of MCSAP to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs

TAKE ACTION:

For FY 2023, the NRSS should be used as a resource for developing CVSPs, and the priorities identified for FMCSA in the NRSS should be reflected in proposed MCSAP activities, as discussed below.

Supplemental Information for the Development of FY 2023 CVSPs

Updated Emphasis Areas

Each year, FMCSA identifies emphasis areas to guide States in aligning their programs with Agency priorities. While the FY 2023 emphasis areas established in the June Planning Memorandum remain in

effect, the additional information below provides targeted areas that MCSAP lead agencies are strongly encouraged to include in FY 2023 CVSPs.

The original FY 2023 MCSAP application announcement may be found on Grants.gov at:
<https://www.grants.gov/web/grants/view-opportunity.html?oppId=341353>

1) New Entrant Safety Audits and Investigations

As previously stated in the June 15, 2022, Planning Memorandum, new entrant safety audits and carrier investigations play a critical role in CMV safety.

New Entrant Safety Audits

All MCSAP recipients are currently required to have a robust interstate new entrant safety audit program, in order to receive MCSAP funds. Despite this requirement, the backlog of new entrant carriers awaiting safety audits has increased dramatically over the past two years. New entrant carriers continue to be overrepresented in crashes, and have higher crash rates overall if one or more of the Behavior Analysis and Safety Improvement Categories (BASICs) are high.

In addition to safety-based interventions at the carrier level, new entrant audits provide an opportunity for States to identify potential issues with CMV operators, such as incomplete/improper hours of service compliance, proper licensure, and operational status via the Drug and Alcohol Clearinghouse (DACH).

MCSAP lead agencies should continue to ensure that adequate resources are being allocated for interstate new entrant safety audits, and that an effective balance is reached regarding off site versus on site audits. FMCSA will assess the degree of resources allocated for this task, in comparison to the State's new entrant and new entrant overdue inventory when reviewing the CVSP. Please review the June 15, 2022, Planning Memo for details on eligibility regarding intrastate new entrant audit programs.

Investigations

In addition to new entrant audits, MCSAP lead agencies are strongly encouraged to utilize grant funding to increase the number of carrier investigations conducted within their jurisdiction. While several MCSAP participants engage in interstate and/or intrastate investigations, a large number of risk-based carriers, in need of intervention, continue to be identified each year.

FMCSA has identified approximately 68,000 carriers (including new entrants) classified under its risk-based criteria as potential investigation targets. The most recent Safety Measurement System (SMS) effectiveness report provided critical information emphasizing the high crash risk posed by these carriers. For example, the group of carriers that SMS identified in just the "Risk 1" category had a crash rate that was 65 percent higher than the group of carriers not identified for intervention. Please see the table below for additional information on the high crash threat posed by these carriers.

Prioritized Carrier Risk Category and Crash Rates

Prioritized Carrier Risk Category	Highest Risk Category for Prioritized Carriers Over Past 12 Months*	Crash Rate (Crashes per 100 PUs) for 24 Months	Percent Increase in Crash Rate Compared to National Average (4.85)**
	(Jan. 2021 – Dec. 2021)	(Jan. 2020 – Dec. 2021)	
High-Risk	3,630	16.96	250%
Moderate Risk (ALL)	13,871	10.73	121%
Moderate-Risk 1	2,614	13.76	184%
Moderate Risk 2	11,257	9.69	100%
Risk (ALL)	50,126	6.72	39%
Risk 1	38,688	7.98	65%
Risk 2	1,346	2.97	-39%
Risk 3	10,092	1.79	-63%

*Carriers were counted once based on the highest risk category they achieved during this 12-month period.

For investigations, lead agencies are strongly encouraged to dedicate resources to address risk-based carrier compliance reviews/investigations within their FY 2023 CVSP. This includes utilizing MCSAP funds to increase the number of trained and certified investigation personnel.

Safety Emphasis – New Entrant Audits & Carrier Investigations – (NRSS Objective Safer People/Safer Vehicles)

Expanding the number of new entrant safety audits and carrier investigations reduces the number of unsafe carriers and drivers operating on the nation's roadways.

TAKE ACTION:

For FY 2023, FMCSA challenges State lead agencies to:

- Increase the number of new entrant carriers audited by 15% to aid in the removal of high-risk companies from operation.
- Reduce the number of overdue new entrant audits within their jurisdiction by 20 percent.
- Dedicate, or expand the number of, State personnel conducting investigations.
- Increase the number of interstate carrier investigations by 20 percent.

2) Driver and Vehicle Inspections and Safety Impacts

Inspections of commercial motor vehicles remain a core component of MCSAP and provide invaluable data on motor carrier and driver safety performance. While the number of inspections has generally remained consistent, the number of crashes and fatalities has remained high. As referenced in the Planning Memo issued on June 15, 2022, roadway work zones play a part in the rate of CMV crashes.

Inspections also provide opportunity to directly engage in critical areas of public safety including human trafficking, human smuggling, and the illegal transportation of controlled substances. The Department of Transportation has for several years actively campaigned to increase awareness of

human trafficking and encourage its grant recipients to use funding to address this issue. For more information on DOT's efforts relating to human trafficking, please visit:

<https://www.transportation.gov/stophumantrafficking>

MCSAP lead agencies are strongly encouraged to include and identify in their CVSPs activities that are being conducted to address areas of high crash occurrence. In regions where inspections are performed in or near areas of highway/roadway construction, States should identify and measure the crash reduction objective/goal for those efforts. As a reminder, MCSAP lead agencies should carefully review data provided in the June Planning Memorandum relating to Interstates with high work zone crashes and target these areas.

In addition, MCSAP leads should actively coordinate with other enforcement agencies' efforts to combat human trafficking, human smuggling, drug interdiction, etc., as allowed under MCSAP participation requirements. States are reminded that these efforts are MCSAP-eligible as long as they are paired with an appropriate North American Standard inspection. MCSAP lead agencies should specifically identify any planned activities that are associated with these efforts in their CVSP.

Safety Emphasis – CMV Inspections and Safety Impact – (NRSS Objective Safer People/Safer Vehicles/Safer Roads)

Inspections play a critical role in addressing driver, vehicle, and public safety. Lead agencies need to maintain an effective and balanced inspection program as part of their MCSAP activities.

TAKE ACTION:

For FY 2023, FMCSA challenges State lead agencies to:

- **Reduce the number serious CMV crashes, especially those in and around work zones, by 15 percent.**
- **Establish routine strike forces or other appropriate enforcement tactics to address human trafficking, human smuggling, and drug interdiction in conjunction with CMV inspections.**
- **Provide necessary refresher training to MCSAP personnel on human trafficking and drug interdiction detection.**
- **Create targeted outreach and education campaigns promoting work zone safety and advising the general public on ways to report suspected incidents of human trafficking/smuggling involving commercial vehicles**

3) Traffic Enforcement

Consistent with the NRSS objectives of safer people, safer vehicles and safer speeds, MCSAP lead agencies are strongly encouraged to outline in the traffic enforcement Section of their CVSP how they will use data to tailor strategies to address driver behavior. The most recent national data indicates that the overall roadside “catch rate” for drivers prohibited from operating under FMCSA’s Drug and Alcohol Clearinghouse (DACH) regulations is slightly over 50%. The average catch rate for

motor carriers operating in violation of an Out of Service (OOS) order is around 80%. Traffic enforcement efforts are effective means to identify and remove these drivers from operation.

Within the traffic enforcement section of the CVSP, MCSAP leads will continue to identify the forms of traffic enforcement they will be implementing (CMV with inspection, CMV without inspection, etc.), as well as describe the efforts they will take to address driver behaviors relating to:

- Excessive speed
- Work zone safety
- Impaired driving
- Distracted driving – cell phone usage and texting
- Occupant/driver restraint
- Driver fatigue
- Prohibited operation – DACH and Federal OOS violations
- Other areas, including days and times, as identified by the State

Lead agencies should also identify in their CVSP how these efforts have changed, compared to previous years, with the increased funding provided via the BIL.

Safety Emphasis – Traffic Enforcement – (NRSS Objective Safer People & Safer Vehicles)

Traffic enforcement efforts have critical impacts on the safe operation of CMVs, as well as impacting compliance with core safety programs for both motor carriers and drivers. MCSAP Lead agencies should detail in the CVSPs how they will tackle the actions below.

TAKE ACTION:

For FY 2023, FMCSA challenges State lead agencies to:

- Increase CMV traffic enforcement efforts combined with an inspection by at least 10 percent.
- Increase the percentage of DACH prohibited drivers identified at roadside by 15 percent (national goal of 85% detection by FY 2025).
- Increase the percentage of OOS carriers identified and detained by 10 percent.

4) Additional Federal Initiatives to Highlight in Your CVSP as Applicable

In addition to updated emphasis areas identified above, all MCSAP applicants are strongly encouraged to identify in their CVSP how the issues below can also be addressed, as applicable:

1. Equitable Enforcement Practices

In support of the President's January 20, 2021, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (EO 13985), FMCSA is

requesting that MCSAP recipients discuss within their CVSP measures that the State is taking to ensure equitable enforcement related to CMV safety. In addition, MCSAP recipients are encouraged to carefully read the updated Title VI compliance requirements relating to inspection selection and the unbiased policing policies contained in the June Planning Memo.

2. Climate and Sustainability

Where appropriate, States should demonstrate how proposed projects address the objectives of climate change/sustainability outlined in Executive Order 14008 as well as the objectives of the Executive Order 14052 on the implementation of IIJA/BIL. Such projects might include steps to minimize inspection wait times and related CMV idling and emissions, purchase of hybrid/electric vehicles (in place of fossil fueled), etc.

3. Rural Transportation Networks

The Department of Transportation established the Rural Opportunities to Use Transportation for Economic Success (ROUTES) Initiative to address disparities in rural transportation. In support of this initiative, FMCSA instructs applicants to describe how activities proposed in their CVSP would address the unique challenges facing rural transportation safety as it relates to commercial motor vehicles. MCSAP participants that will be engaging in CMV safety efforts in rural areas should clearly indicate this activity within their CVSP and include specific objectives and outcomes. Additional information on this initiative can be found at <https://www.fmcsa.dot.gov/rural> and <https://www.transportation.gov/rural>.

Please note that this document is intended as a supplement to the *Development of Fiscal Year 2023 Commercial Vehicle Safety Plans* memorandum issued on June 15, 2022. All requirements and application standards identified in the June memorandum remain in full effect.