

# Proposed Motor Carrier Safety Assistance Program (MCSAP) Formula Frequently Asked Questions (FAQs)

<b>1. Formula Implementation Process .....</b>	<b>3</b>
What is the process for implementing the MCSAP Formula Working Group’s recommendations? .....	3
How can I provide comments on the proposed formula? .....	3
When will the proposed formula go into effect? .....	3
<b>2. Formula Development Process .....</b>	<b>4</b>
Who was in the MCSAP Formula Working Group and how were they selected? .....	4
Why is there an addendum to the Working Group’s recommendation? .....	4
What were the primary considerations of the Working Group? .....	4
What was the Working Group’s analysis process? .....	5
Did the Working Group consider the consolidation of grants under the FAST Act? .....	5
Where can I get details from Working Group meetings? .....	6
<b>3. Proposed Formula.....</b>	<b>6</b>
What are the major changes between the Working Group’s proposed formula and the previous one? .....	6
How is funding divided between components? .....	7
Why does the proposed MCSAP Formula not include an incentive formula? .....	7
If there is no incentive formula, are States still required to meet data quality standards? .....	7
<b>4. Basic Factor Component .....</b>	<b>8</b>
What entities/jurisdictions are impacted by this component? .....	8
What are the five factors? .....	8
Why was carrier registrations added? .....	8
Why was 1997 road miles changed to up-to-date highway miles? .....	8
Why did the Working Group choose to keep population, VMT, and special fuel consumption in the formula? .....	8
Did the Working Group consider other potential factors? .....	8
<b>5. Border Component .....</b>	<b>9</b>
Why does the proposed formula have a new Border Component? .....	9

What entities/jurisdictions are eligible to receive border funding? ..... 9

How will funding for Border Enforcement programs be distributed?..... 9

Are border States required to spend this portion of their funding on border activities? ..... 9

**6. Territory Component ..... 10**

    Did the MCSAP Formula Working Group consider the needs of Territories? ..... 10

    How will funding be allocated to the Territories? ..... 10

**7. Contact Info ..... 10**

    Who can I contact for more information on the MCSAP Formula Working Group and its  
    recommendations? ..... 10

## ***1. Formula Implementation Process***

### **What is the process for implementing the MCSAP Formula Working Group's recommendations?**

The MCSAP Formula Working Group, which was formed in 2016 as required by the Fixing America's Surface Transportation (FAST) Act, provided an initial set of recommendations to FMCSA in April 2017, and submitted an addendum in December 2018 following review of newly-available data and discussions with FMCSA. FMCSA then submitted the recommendations to the Office of the Secretary of Transportation, which reviewed and accepted the Working Group's recommendations. After posting the recommendations report to its website, FMCSA will incorporate these recommendations into a forthcoming Notice of Proposed Rulemaking (NPRM) to be published in the Federal Register, to update Title 49 of the Code of Federal Regulations (CFR), Part 350 (the MCSAP regulations). Publication in the Federal Register will provide the public the opportunity for review and comment on the proposed formula and other MCSAP updates. Following review of these comments, the FMCSA will issue a Final Rule, which incorporates the final changes into 49 CFR Part 350.

### **How can I provide comments on the proposed formula?**

The forthcoming NPRM will allow the public to comment on the proposed MCSAP allocation formula. All comments submitted to the Federal Register docket will be reviewed and considered by FMCSA before a Final Rule is issued.

### **When will the proposed formula go into effect?**

The FMCSA would like to implement the proposed formula as soon as possible, although not before seeking public comment on the proposed formula. After public comments are reviewed and considered, the implementation date will be announced in the Final Rule.

### **Will my State's funding level change under the proposed formula?**

It should be noted that the Working Group's proposed new formula is simply a proposal at present, and will be subject to public notice and comment prior to inclusion in the Federal Motor Carrier Safety Regulations. As such, until public comment has been received and any updates are incorporated into a Final Rule to be published in the Federal Register, the proposed formula will not be used to allocate MCSAP grant funding among the States and Territories.

Individual State-to-State funding changes are anticipated under the proposed new formula, but the Working Group proposal includes "caps" that prevent significant year-to-year changes. Specifically, the Working Group recognized the need for year-to-year stability in State funding. For this reason, the proposed formula includes a provision that a State's share of funding cannot decrease by more than 3% or increase by more than 5% from the prior year's share. As such, any change in State funding will occur gradually over the course of several years. This provision mitigates any significant swings in year-to-year State funding changes.

For an approximation of State-by-State funding levels using FY2020 funding amounts, see the “Revised Recommendation” column in Table A-10 on page A-21 of the Addendum to the Working Group’s recommendation. Note that this is an approximation because data sources for individual formula factors are updated annually to use the most recent data available for that fiscal year’s funding formula. In general, States may see a small but manageable year-to-year change in their funding levels under the proposed formula, with funding levels between 97% and 105% of the prior year’s share of funding.

## ***2. Formula Development Process***

### **Who was in the MCSAP Formula Working Group and how were they selected?**

In accordance with the FAST Act, Working Group membership consisted of:

- Eight members from State lead agencies.
- One member from an organization representing State CMV enforcement agencies.
- Five representatives from FMCSA.

One safety advocate was also involved in the initial Working Group meetings, although this was not a requirement of the FAST Act. A complete list of the MCSAP Working Group members can be found in the Working Group’s report.

Selection to the Working Group was made following a public solicitation for applications. A panel of five staff from various offices within FMCSA reviewed and rated all submitted application materials for consideration based on several criteria, including commitment to transportation safety and record of collaboration with stakeholders and MCSAP program leadership, among others.

### **Why is there an addendum to the Working Group’s recommendation?**

The Working Group submitted its initial set of recommendation for a new MCSAP Grant allocation formula to FMCSA in April 2017. FMCSA then reviewed the recommendations and provided comments, including newly available analysis and data that it asked the Working Group to consider. The Working Group then reconvened to address FMCSA’s comments, and the resulting addendum was then submitted to the Office of the Secretary of Transportation, along with the original report. The Office of the Secretary has completed its review, and an NPRM will be forthcoming.

### **What were the primary considerations of the Working Group?**

The Working Group established that the formula should:

- Improve upon the previous MCSAP formula, using it as a baseline for improvement.
- Address FAST Act grant changes to grant consolidation.

- Meet specific FAST Act formula requirements.
- Be safety-based (primary objective), with crash risk at the forefront of analysis.
- Promote stability in funding.
- Respond to changes in crash risk to continually reflect current trends.
- Use high-quality, regularly updated data sources.
- Respond to changes in overall funding levels.

The Working Group's guiding principles were instrumental during the development process and are reflected in the proposed formula. Additional general considerations regarding specific areas of interest are described in the following questions. More detailed information can be found in the report itself and in the Working Group's meeting notes on the Working Group's website.

### **What was the Working Group's analysis process?**

The Working Group began its work by understanding and evaluating the current MCSAP formula, studying the design considerations, and conducting research to make informed recommendations for changes to the formula. Member expertise was leveraged to identify areas for improvement and inspiration in the previous formula, as were other grant formulas and relevant scientific literature. To create alternative formula designs, the Working Group followed a rigorous analysis process consisting of qualitative and quantitative research into each area of improvement. The depth of analysis varied between areas, depending on their complexity and importance, but the general process remained the same throughout. This iterative process involved:

- Identifying and obtaining data sources.
- Evaluating those data sources to determine if they met the criteria for formula inclusion.
- Reviewing and considering programmatic needs and trends.
- Understanding the varying administrative needs of grant recipients.
- Reviewing published reports and studies.
- Conducting simulations to evaluate funding impacts.

The guiding principles were then used to evaluate the alternative formula designs in each area of improvement. A collaborative decision-making process was used in an effort to obtain the viewpoints of all States and programs for representation and consideration.

### **Did the Working Group consider the consolidation of grants under the FAST Act?**

Yes. As of FY2017, MCSAP now includes funding for activities and/or programs that previously fell within the Border Enforcement Grant, New Entrant Safety Audit Grant, Safety Data Improvement Program (SaDIP), and Performance and Registration Information Systems Management (PRISM) grant programs. The Working Group considered these funding changes carefully when discussing potential formula factors and structure.

## Where can I get details from Working Group meetings?

Detailed notes from Working Group meetings can be found on the Working Group's website. Additional information about the formula development process can be found in the Working Group's report, also available on the Working Group website.<sup>1</sup>

### 3. Proposed Formula

#### What are the major changes between the Working Group's proposed formula and the previous one?

The major changes can be summarized as follows:

##### *Basic Factor Component*

- Three of the factors remain unchanged (population, special fuel consumption, and vehicle miles traveled [VMT]).
- Carrier registrations was added to the proposed formula and 1997 road miles was changed to the most recent highway miles data available.
- Previously, the minimum allocation was determined by the larger of a share of funds or dollar amount. The proposed recommendation would determine the minimum allocation based only on a share of funds, not a dollar amount. The minimum share of funds (0.44%) remains the same, as does the maximum (4.944%).

##### *Incentive Formula*

- The proposed MCSAP Grant allocation formula does not have an incentive portion.

##### *Border Enforcement*

- Up to 11% of total MCSAP funds will be allocated proportionally to the border States based on the personnel needed to provide adequate enforcement at each port of entry in the State. The calculation of personnel need is based on annual CMV crossing volume and accounts for the differences between the Mexican and Canadian borders.
- Minimum share: 0.075% of Border Component.
- Maximum share: 55% of Border Component.
- Border enforcement activities were previously funded through a competitive grant, which was consolidated into MCSAP under the FAST Act.

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<sup>1</sup> MCSAP Formula Working Group website: <https://www.fmcsa.dot.gov/mission/grants/fast-act-mcsap-formula-working-group>

### *New Entrant Safety Audits*

- Funding for New Entrant Safety Audits is accounted for in the Basic Factor Component. Carrier registrations, a factor in the Basic Factor Component, is intended to reflect the New Entrant Safety Audit workload.
- New Entrant Safety Audits were previously funded through a competitive grant, which was consolidated into MCSAP under the FAST Act.

### *Territories*

- Instead of allocating a fixed amount to each Territory, a maximum of 0.49% of total MCSAP funds will be allocated to the Territories as a whole. Funding is divided among the Territories based on a weighted average of population.

### *Year-to-Year Stability Provision*

- New provisions to promote stability were added: no State's share of total MCSAP funding will decrease by more than 3% or increase by more than 5% each year. This will also prevent drastic changes in funding in the first year that the formula is implemented and will allow for a smoother transition.

## **How is funding divided between components?**

- Basic Factor Component: 88.51%
- Border Component: Up to 11%
- Territory Component: Up to 0.49%

## **Why does the proposed MCSAP Formula not include an incentive formula?**

The Working Group considered an incentive formula, but ultimately decided that it did not align with the guiding principles to promote stability and keep the formula based on crash risk. Additionally, the FAST Act increased FMCSA's flexibility to enforce requirements for participation in MCSAP, which diminishes the need to use an incentive formula for this purpose.

## **If there is no incentive formula, are States still required to meet data quality standards?**

Yes. Although it is no longer included in the formula, data quality remains a requirement for participation in MCSAP, as discussed in 49 CFR Part 350. In order to be eligible for funding, States must establish and dedicate sufficient resources to a program that ensures accurate, complete, and timely motor carrier safety data are collected and reported. FMCSA has the ability to withhold funding if these requirements, or any other MCSAP requirements, are not met.

## **4. Basic Factor Component**

### **What entities/jurisdictions are impacted by this component?**

The 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are all eligible for funding allocated through the Basic Factor Component. (Note that the “Territory Component” of the formula is used to allocate MCSAP funding to Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa.)

### **What are the five factors?**

- Population
- Highway miles
- Vehicle miles travelled (VMT)
- Special fuel consumption
- Carrier registrations

### **Why was carrier registrations added?**

The inclusion of carrier registrations aims to account for the additional workload and cost incurred by States that have a high CMV carrier population, including the New Entrant Safety Audit workload. Additionally, since the development of the previous formula, better carrier registration data have become available due to the creation of the Unified Carrier Registration (UCR) system in 2005 (UCR Act - 49 United States Code [U.S.C.] section 14504a), followed by the implementation of the Unified Registration System (URS) in December of 2015.

### **Why was 1997 road miles changed to up-to-date highway miles?**

One of the Working Group’s guiding principles was to use quality and up-to-date data sources that are easily accessible and dependable over time. Although highway miles is a relatively stable factor, there are some changes from year to year. Annually updated data sources allow the formula to remain up to date and responsive to States’ changes in crash risk.

### **Why did the Working Group choose to keep population, VMT, and special fuel consumption in the formula?**

The Working Group evaluated each of the existing formula factors individually and determined that they were all quality data sources and that they were strongly correlated with crash risk. The Working Group was unable to identify data sources that better represented crash risk.

### **Did the Working Group consider other potential factors?**

Yes, the Working Group thoroughly evaluated many potential factors for the proposed formula. Part III, Section 6 of the Working Group’s report provides details of the deliberations surrounding other potential formula elements.

## 5. Border Component

### **Why does the proposed formula have a new Border Component?**

As of FY2017, MCSAP now includes funding for activities and/or programs that previously fell within the Border Enforcement Grant. Since the late 1990s, border enforcement activities have improved the safety of motor carriers and drivers operating CMVs in international commerce. Not only does national safety compel FMCSA to maintain these safety gains, but Congress has also expressed this goal through legislation. Therefore, the Working Group agreed it was important that the formula support the funding needs of border activities in order to maintain these safety gains and adhere to the requirements of the FAST Act.

### **What entities/jurisdictions are eligible to receive border funding?**

Any State that shares a land border with another country is eligible to receive a share of the Border Component, but they must have a CMV safety border enforcement program that meets MCSAP requirements.

### **How will funding for Border Enforcement programs be distributed?**

The Working Group recommendation allocates 11% of MCSAP funds based on estimated personnel needs for enforcement at each point of entry. To calculate personnel needs, the formula uses both a ratio of personnel to crossing volume and a minimum limit of personnel per port of entry. This approach follows the framework from an Office of Inspector General (OIG) audit report that recommended adequate staffing levels.<sup>2</sup> The MCSAP Formula Working Group also leveraged the research conducted in the OIG audit report to determine the most effective division of funding between the Northern and Southern border States.

Additionally, under this proposal no eligible States would receive less than 0.075% of the Border Component or more than 55% of the Border Component.

For more details see Part III, Section 3 of the Working Group's report.

### **Are border States required to spend this portion of their funding on border activities?**

No. After funding is allocated to States, each State has the flexibility to decide which portion of their funding will be spent on border enforcement. However, to remain eligible for border funding they must continue to maintain an effective CMV border enforcement program focused on international commerce.

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<sup>2</sup> "Motor Carrier Safety Program for Commercial Trucks at U.S. Borders (Report Number: TR-1999-034)." *Office of the Secretary and Federal Highway Administration*, 1999.

<https://www.oig.dot.gov/sites/default/files/tr1999034.pdf>

## ***6. Territory Component***

### **Did the MCSAP Formula Working Group consider the needs of Territories?**

Yes. Previously, the MCSAP allocation formula funded Territories (with the exception of Puerto Rico, which is treated as a State) at a fixed rate. The Working Group examined and discussed the needs of the Territories at length and aimed to provide accommodations for the different needs and future growth among the Territories.

### **How will funding be allocated to the Territories?**

The proposed formula allocates 0.49% of MCSAP funds to the Territories based on a weighted average of population. The Working Group also made additional recommendations to FMCSA regarding the Territories, including conducting a study to determine an appropriate minimum share of funding and working towards establishing a method for the Territories to provide the data necessary to be included in the Basic Factor Component of the formula.

## ***7. Contact Info***

### **Who can I contact for more information on the MCSAP Formula Working Group and its recommendations?**

In accordance with Federal regulations, the only way to submit comments on the proposed formula is to respond to the NPRM via the official rulemaking process. Any comments submitted directly to FMCSA via phone, email, or any other means will not be considered.

If you have questions about the rulemaking process, you may contact:

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