



## Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group Meeting Minutes

March 23-24, 2017

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) Formula Working Group held an in-person meeting on March 23–24, 2017 in Minneapolis, Minnesota. Thomas Liberatore, FMCSA Chief, State Programs Division and Designated Federal Officer (DFO), called the meeting to order at 4:00 p.m. CST.

The following individuals attended the meeting:

### **MCSAP FORMULA WORKING GROUP MEMBERS\***

Nancy Anne Baugher, FMCSA

Lt. Donald Bridge, Jr., Connecticut Department of Motor Vehicles

Caitlin Cullitan, FMCSA

Lt. Thomas Fitzgerald, Massachusetts State Police

Adrienne Gildea, Commercial Vehicle Safety Alliance (CVSA)

Michelle N. Lopez, Colorado State Patrol

Thomas Liberatore, Chief, State Programs Division and DFO, FMCSA

Alan R. Martin, Ohio Public Utilities Commission

Dan Meyer, FMCSA (attended via webinar on Day 2 only)

Lt. Brent Moore, Georgia Department of Public Safety

Capt. Brian Preston, Arizona Department of Public Safety

John E. Smoot, Kentucky State Police (attended in person on Day 1 and via webinar on Day 2)

Courtney Stevenson, FMCSA

Col. Leroy Taylor, South Carolina Department of Public Safety

\*Stephen C. Owings, Road Safe America, 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

Jacob York, FMCSA

### **OTHER ATTENDEES**

Lauren Beaven, DIGITAL iBiz (attended via webinar on Day 2 only)

Collin Mooney, CVSA†

† Attended Day 1 only



## 1. Welcome and Introductions

Tom Liberatore, FMCSA, welcomed everyone to the final scheduled in-person meeting of the MCSAP Formula Working Group. He told the group that the purpose of today's meeting would be to go through the report and gather comments from Working Group members.

## 2. Major Feedback on Recommendations

The Working Group provided the following comments on the draft of the written recommendation:

- It needs to be made clear that the States have flexibility to use the money across all MCSAP eligible activities (i.e., Border funding is not just for the Border, it can be used where it's most needed).
- The language in the Territories section regarding the military bases should be stricken.
- The recommendation for FMCSA to conduct a study on the Territories should be written more authoritatively.
- Recommendations need to be re-numbered and synchronized between the body of the recommendation and the appendix.
- A Working Group member had previously provided a comment via email that the Operations and Maintenance (O&M) section did not paint a complete picture of O&M, and Chang asked for some clarification. Working Group members walked through their suggestions regarding O&M.
  - The report currently lists the following rejected factors:
    - General cost of running a program/cost of salaries;
    - O&M; and
    - A stipend-based approach.All of these were too complicated to implement. Now the Working Group is recommending combining these into one section, which is a wholesale study on costs.
- We need to add a statement about how the Territories are funded 100% and not required to provide a match. Even though it doesn't affect the formula, providing that clarification would be helpful.
  - One Working Group member suggested adding language regarding the hold-harmless provision. The new language clarifies that the hold-harmless provision acts as a smoothing factor to mitigate changes in funding due to a 1-year fluctuation.
- In each section the report suggests using the most current data available. It would also be good to have something up front about how in the past the Basic formula was not using the most current data.

Chang then asked the Working Group for clarification on some remaining questions:



- For the Territory recommendation: The Working Group is recommending a short-term minimum (that FMCSA should determine ahead of the rulemaking); the remainder will be distributed based on need, and then FMCSA will do a long-term study.
  - Territory minimum study should be clearly connected to the larger minimum study (for all jurisdictions).
- For the purposes of this report, “States” also means the District of Columbia (DC) and Puerto Rico (PR). Can the report just say “States” throughout? Similarly, for the Territories, these do not include PR for the purposes of the recommendation. When should the report say States vs. jurisdictions vs. Lead Agencies?
  - In 49 U.S.C. 31101, States includes DC, PR, and the other four Territories.
  - The report can say that “States” includes Territories unless otherwise specified.
  - “Lead agencies” are the representatives of the States, but FMCSA issues funds to the State.

### **3. Day 1 Wrap-Up / Prepare for Day 2**

Tom Liberatore confirmed that the Working Group would be meeting again the following morning at 8:00 AM CST. Liberatore adjourned the meeting for the evening at 4:40 PM CST.

### **4. Day 1 Recap/Day 2 Goals and Objectives**

Tom Liberatore welcomed everyone to the meeting at 8:00 AM CST.

Liberatore introduced the day’s agenda. He noted that the Working Group would continue their work from Day 1. Michael Chang and Dianne Gunther, of the U.S. DOT Volpe Center, already made some of the recommended updates to the report from Day 1.

### **5. Detailed Feedback on Recommendations**

Chang noted that the following updates had been made per the discussion on Day 1:

- The Territory recommendations had been re-written.
- A new section had been added with a different way of explaining O&M.
- A few words were added to the “Guiding Principles” section to note that in the past the Basic formula was not using the most current data.
- A few of the other more minor edits hadn’t been made yet, but had been noted and will be incorporated into the document after the meeting.

Then Chang stepped through the document section by section:

- Executive Summary
  - The description of the Territory Component was reworded.
  - Everyone verified that their names and affiliations were correct on the Acknowledgments page.
- Definitions
  - State



- The Working Group determined that it was acceptable to create a new definition of State as long as the report acknowledges that it does not use the 49 U.S.C. 31101 definition.
- Introduction
  - The report should note that the Safety Data Improvement Program (SaDIP), the Performance and Registration Information Systems Management (PRISM), and the Commercial Motor Vehicle Information Systems and Networks (CVISN) grant programs were all also consolidated with MCSAP under the FAST Act (in addition to the New Entrant Safety Audit and Border Enforcement Grants).
- MCSAP Formula Working Group
  - There was a discussion about whether or not “safety audit” should be capitalized. It was noted that “New Entrant Safety Audit” should be capitalized when referring to the grant, but not when referring to the activities.
  - The Working Group asked to clarify that “fiscal year” means the Federal fiscal year. Chang noted that this would be specified in the Definitions section.
  - Guiding Principles Section
    - Under “Changes in Crash Risk,” Chang added a note that the previous formula did not use the most current data available.
- Proposed Formula
  - Section A, Formula Components is not clear.
  - There was a question as to whether the group should specifically call out “89.85%” in the recommendation regarding the amount of funding allocated for the Basic formula. This number is very specific and there is no explanation prior to the recommendation.
    - The Working Group decided to keep the specific number in the recommendation, but to move the narrative above the bolded recommendation to provide the explanation first.
  - The last paragraph of Section A should include a reference to reductions in funding, not just the States that do not participate.
  - Chang noted that he added “both States and Territories” in parentheses after the recommendation for a study to determine an appropriate minimum share of the Basic component. In the Territories Section there is also a separate recommendation for the Territory minimum.
  - Border Component
    - The Working Group reminded Chang to include the language about how the Working Group recognizes that the border money is flexible, in alignment with the intent of FAST Act. Caitlin Cullitan, FMCSA, offered to draft the appropriate language.
  - Territory Component
    - The reference to the presence of military bases was removed.
    - There are two new recommendations: FMCSA should determine a short-term minimum prior to the rulemaking, and then conduct a study to determine the minimum in the long-term.



- There is also a third recommendation for FMCSA to include the Territories in the Basic formula and discontinue the Territory set-aside if they are able to get better data from the Territories in the future.
- The report needs to be clear on the recommendations:
  - “Short-term” means prior to implementation of the formula. The Working Group is charging FMCSA with the responsibility to determine a minimum prior to the issuance of the Notice of Proposed Rulemaking (NPRM).
  - Also, the Working Group wants to change how the money is allocated to the Territories right now by setting aside 0.65% to be distributed on a need-driven basis.
  - The Working Group is also recommending that FMCSA research a long-term minimum for the future.
- Formula Adjustments (hold-harmless, cap, and reallocation)
  - It was noted that some of the language (both in this section and throughout) needs to be revised (e.g. “ensure” should not be used throughout).
- Elements Considered and Rejected
  - Chang drafted a new section after the discussion on Day 1. The new “Cost of Operating MCSAP” section combines cost of salaries with O&M.
  - The other two sections (“Cost of Living” and “Stipend-Based Approach”) will be removed.
  - The Working Group approved of the following language: “The proposed formula, which allocates funding based on CMV crash risk by jurisdiction, should provide sufficient funding and spending flexibility to cover such costs.”
  - It should be clear that the primary reason for not including O&M was because of the complexity.
- Appendices
  - There should be a footnote that explains that the outliers are the same on all of the scatterplots (Texas and California).

## 6. Recommendation Timeline and Next Steps

Tom Liberatore informed the Working Group that Michael Chang and Dianne Gunther were going to immediately start incorporating the most recent set of comments and edits into the report. Then, the report will be copy-edited, and the final draft will be sent to the Working Group for final review on March 31, 2017.

Liberatore reminded the Working Group that the report would be due to FMCSA by the week of April 3, 2017. The Working Group will review the document provided to them on Friday, and will submit final comments during a conference call the week of April 3<sup>rd</sup>. The Working Group agreed to hold the call on April 6, 2017 at 3:00 PM EST.



## 7. Communications and Process Updates

Michael Chang briefly reviewed two communications documents, and indicated that they would be provided to the Working Group via email after the meeting for further review.

### Document 1: “Summary: MCSAP Allocation Formula Progress”

- Chang noted that this document aligns with the high-level message that Tom Liberatore provided to the participants of the MCSAP Planning Meeting earlier that week.
- The details of the formula will be released after the Secretary has reviewed the recommendation.
- Liberatore reminded the Working Group that the recommendation report belongs to the Working Group. If the Secretary were to request a change, it would come back to the Working Group and they could submit an addendum or make a change to the report. FMCSA will not change what the Working Group wrote.
- The recommendation will be publically posted and the Federal Register Notice (FRN) will demonstrate what was carried over from the Working Group’s recommendation, what wasn’t, and the rationale behind why anything is different.
- Once the NPRM is issued, if any Working Group members have comments, they need to be submitted through the formal process.

### Document 2: “MCSAP Allocation Formula – FAQs”

- Chang explained that this document expands on the FAQs that the Working Group drafted in their last in-person meeting in Charleston, SC, but excludes some questions that were too specific for this phase (prior to the Secretary’s review).
- The Working Group commented that the statement “the Working Group has not yet proposed a formula” is not accurate. They instead suggested, “The Working Group has submitted a formula recommendation to the Secretary and it is currently under review. The details of the formula will not be released until the review process has been completed.”
- There was a suggestion to add “What were the opportunities for public participation?”
  - Meetings were held across the country in all four service center,
  - The meetings were announced on the public website,
  - Meetings were open to the public, and
  - The meeting minutes are posted on the public website.
- Chang continued reviewing the document and there were no further comments.

Chang noted that the Summary document and FAQs would be put into a nice, presentable format before being posted on the website. Chang also noted that a communications guidance document was sent out to the group the previous week. He asked if there were any questions, and there were not.

## 8. Concluding Statements



Tom Liberatore closed the meeting by thanking all of the members for their hours of dedication, as well as their energy, thoughtful discussions, and thorough review. He also thanked the FMCSA State Programs staff and the Volpe Center for their support.

**ADJOURNMENT:** The meeting was adjourned at 10:18 AM CST.

**ACTION ITEMS**

Topic	Action Item	Assignment
Recommendation Report	Volpe will incorporate the Working Group's feedback into the report, and will provide a copy-edited version to the Working Group by March 31, 2017.	Volpe analysis team
Recommendation Report	The Working Group members will provide their final feedback by the afternoon of April 4, 2017.	Working Group members
Communications Documents	Volpe will provide the communications documents to the Working Group for further review.	Volpe analysis team