

§ 350.213

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 assistance and State matching funds, for CMV safety programs eligible for funding under the Basic program 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. These expenditures must cover at least the following four program areas, as applicable:

- a. Motor carrier safety programs in accordance with 49 CFR 350.109.
- b. Size and weight enforcement programs in accordance with 49 CFR 350.309(c)(1).
- c. Drug interdiction enforcement programs in accordance with 49 CFR 350.309(c)(2).
- d. Traffic safety programs in accordance with 49 CFR 350.309(d).

9. The State will ensure that CMV size and weight enforcement activities funded with MCSAP funds will not diminish the effectiveness of other CMV safety enforcement programs.

10. The State will ensure that violation fines imposed and collected by the State are consistent, effective, and equitable.

11. The State will establish a program to provide FMCSA with accurate, complete, and timely reporting of motor carrier safety information that includes documenting the effects of the State's CMV safety programs; participate in a national motor carrier safety data correction program (DataQs); participate in SAFETYNET; and ensure information is exchanged in a timely manner with other States.

12. The State will ensure that the CVSP, data collection, and information systems are coordinated with the State highway safety program under title 23, U.S. Code. The name of the Governor's highway safety representative (or other authorized State official through whom coordination was accomplished) is _____ . (Name)

13. The State has undertaken efforts to emphasize and improve enforcement of State and local traffic laws as they pertain to CMV safety.

14. The State will ensure that MCSAP agencies have departmental policies stipulating that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.

49 CFR Ch. III (10-1-11 Edition)

15. The State will ensure that requirements relating to the licensing of CMV drivers are enforced, including checking the status of CDLs.

16. The State will ensure that MCSAP-funded personnel, including sub-grantees, meet the minimum Federal standards set forth in 49 CFR part 385, subpart C for training and experience of employees performing safety audits, compliance reviews, or driver/vehicle roadside inspection.

17. The State will enforce operating authority requirements under 49 CFR 392.9a by prohibiting the operation of any vehicle discovered to be operating without the required operating authority or beyond the scope of the motor carrier's operating authority.

18. The State will enforce the financial responsibility requirements under 49 CFR part 387 as applicable to CMVs subject to the provisions of 49 CFR 392.9a.

19. The State will include, in the training manual for the licensing examination to drive a non-CMV and the training manual for the licensing examination to drive a CMV, information on best practices for safe driving in the vicinity of noncommercial and commercial motor vehicles.

20. The State will conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors.

21. The State will ensure that, except in the case of an imminent or obvious safety hazard, an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where motor carriers may make planned stops.

Date _____
Signature _____

[65 FR 15102, Mar. 21, 2000, as amended at 67 FR 12779, Mar. 19, 2002; 67 FR 61820, Oct. 2, 2002; 72 FR 36770, July 5, 2007]

§ 350.213 What must a State CVSP include?

The State's CVSP must reflect a performance-based program, and contain the following eighteen items:

(a) A general overview section that must include the following two items:

(1) A statement of the State agency goal or mission.

(2) A program summary of the effectiveness of the prior years' activities in reducing CMV accidents, injuries and fatalities, and improving driver and motor carrier safety performance. Data periods used must be consistent from year to year. This may be calendar year or fiscal year or any 12-month period of time for which the State's data

is current. The summary must show trends supported by safety and program performance data collected over several years. It must identify safety or performance problems in the State and those problems must be addressed in the new or modified CVSP.

(b) A brief narrative describing how the State program addresses the national program elements listed in §350.109. The plan must address these elements even if there are no planned activities in a program area. The rationale for the resource allocation decision must be explained. The narrative section must include a description of how the State supports the activities identified in §350.201(q) and (t).

(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.

(4) Activities to enforce registration requirements under 49 U.S.C. 13902 and 49 CFR part 365 and financial responsibility requirements under 49 U.S.C. 13906, 31138 and 31139 and 49 CFR part 387.

(c) A definitive problem statement for each objective, supported by data or other information. The CVSP must identify the source of the data, and who is responsible for its collection, maintenance, and analysis.

(d) Performance objectives, stated in quantifiable terms, to be achieved through the State plan. Objectives must include a measurable reduction in highway accidents or hazardous materials incidents involving CMVs. The objective may also include documented improvements in other program areas (e.g., legislative or regulatory authority, enforcement results, or resource allocations).

(e) Strategies to be employed to achieve performance objectives. Strat-

egies may include education, enforcement, legislation, use of technology and improvements to safety infrastructure.

(f) Specific activities intended to achieve the stated strategies and objectives. Planned activities must be eligible under this program as defined in §§350.309 and 350.311.

(g) Specific quantifiable performance measures, as appropriate. These performance measures will be used to assist the State in monitoring the progress of its program and preparing an annual evaluation.

(h) A description of the State's method for ongoing monitoring of the progress of its plan. This should include who will conduct the monitoring, the frequency with which it will be carried out, and how and to whom reports will be made.

(i) An objective evaluation that discusses the progress towards individual objectives listed under the "Performance Objectives" section of the previous year's CVSP and identifies any safety or performance problems discovered. States will identify those problems as new objectives or make modifications to the existing objectives in the next CVSP.

(j) A budget which supports the CVSP, describing the expenditures for allocable costs such as personnel and related costs, equipment purchases, printing, information systems costs, and other eligible costs consistent with §§350.311 and 350.309.

(k) A budget summary form including planned expenditures for that fiscal year and projected number of activities in each national program element, except data collection.

(l) The results of the annual review to determine the compatibility of State laws and regulations with the FMCSRs and HMRs.

(m) A copy of any new law or regulation affecting CMV safety enforcement that was enacted by the State since the last CVSP was submitted.

(n) Executed State Certification as outlined in §350.211.

(o) Executed MCSAP-1 form.

(p) List of MCSAP contacts.

(q) Annual Certification of Compatibility, §350.331.

§ 350.215

(r) State Training Plan.

[65 FR 15102, Mar. 21, 2000, as amended at 67 FR 61820, Oct. 2, 2002; 67 FR 63019, Oct. 9, 2002]

§ 350.215 What are the consequences for a State that fails to perform according to an approved CVSP or otherwise fails to meet the conditions of this part?

(a) If a State is not performing according to an approved plan or not adequately meeting conditions set forth in § 350.201, the Administrator may issue a written notice of proposed determination of nonconformity to the Governor of the State or the official designated in the plan. The notice will set forth the reasons for the proposed determination.

(b) The State will have 30 days from the date of the notice to reply. The reply must address the deficiencies or incompatibility cited in the notice and provide documentation as necessary.

(c) After considering the State's reply, the Administrator will make a final decision.

(d) In the event the State fails timely to reply to a notice of proposed determination of nonconformity, the notice becomes the Administrator's final determination of nonconformity.

(e) Any adverse decision will result in immediate cessation of Federal funding under this part.

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

Subpart C—Funding

§ 350.301 What level of effort must a State maintain to qualify for MCSAP funding?

(a) The State must maintain the average aggregate expenditure of the State and its political subdivisions, exclusive of Federal funds and State matching 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.

(b) Determination of a State's level of effort must not include the following three things:

49 CFR Ch. III (10–1–11 Edition)

(1) Federal funds received for support of motor carrier and hazardous materials safety enforcement.

(2) State matching funds.

(3) State funds used for federally sponsored demonstration or pilot CMV safety programs.

(c) The State must include costs associated with activities performed during the base period by State or local agencies currently receiving or projected to receive funds under this part. It must include only those activities which meet the current requirements for funding eligibility under the grant program.

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

§ 350.303 What are the State and Federal shares of expenses incurred under an approved CVSP?

(a) The FMCSA will reimburse up to 80 percent of the eligible costs incurred in the administration of an approved CVSP.

(b) In-kind contributions are acceptable in meeting the State's matching share if they represent eligible costs as established by 49 CFR part 18 or agency policy.

§ 350.305 Are U.S. Territories subject to the matching funds requirement?

The Administrator waives the requirement for matching funds for the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

§ 350.307 How long are MCSAP funds available to a State?

The funds obligated to a State will remain available for the rest of the fiscal year in which they were obligated and the next full fiscal year. The State must account for any prior year's unexpended funds in the annual CVSP. Funds must be expended in the order in which they are obligated.

§ 350.309 What activities are eligible for reimbursement under the MCSAP?

The primary activities eligible for reimbursement are:

(a) The five national program elements listed in § 350.109 of this part.