



DEPARTMENT OF TRANSPORTATION [4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0325]

Motor Carrier Safety Assistance Program Multi-year Plans

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: The Fixing America's Surface Transportation Act (FAST Act), requires the Secretary to prescribe procedures for a State to submit multiple-year commercial vehicle safety plans ("multi-year plans") and annual updates for the Motor Carrier Safety Assistance Program (MCSAP) grants. In a prior notice, FMCSA requested information and posed specific questions to improve the Agency's development and implementation of multi-year plans. This notice announces FMCSA's voluntary implementation of multi-year plans.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Liberatore, Chief, State Programs Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590, Telephone (202) 366-3030 or by email at Thomas.Liberatore@dot.gov. Office hours are from 8:00 a.m. to 5:00 p.m., E.T., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Background

The goal of the MCSAP is to ensure that there is a partnership between the U.S. Department of Transportation and the States to establish programs to improve motor

carrier, commercial motor vehicle (CMV), and driver safety to support a safe and efficient surface transportation system. MCSAP makes targeted investments to promote CMV safety, including the transportation of passengers and hazardous materials. FMCSA encourages the States and Territories to invest in activities likely to maximize reductions in the number and severity of CMV crashes and fatalities resulting from such crashes. This is accomplished by adopting and enforcing effective motor carrier, CMV, and driver safety regulations and practices consistent with Federal requirements, assessing and improving statewide performance by setting program goals, and meeting performance standards, measures, and benchmarks.

FMCSA amended its regulations to conform to 49 U.S.C. 31102(c)(1), as amended by the FAST Act, Pub. Law 114-94 (2015), section 5101, and removed the requirements for the annual plans in the final rule titled, “Amendments to Implement Grants Provisions of the Fixing America’s Surface Transportation Act.” FMCSA published this rule in the Federal Register on October 14, 2016 [81 FR 71010]. These changes allow States to use a multi-year plan, but do not require it.

The FAST Act section 5101, amending 49 U.S.C. 31102, required significant changes to the Agency’s grant programs, including moving the border enforcement and new entrant programs into the MCSAP for allocation via the formula. In addition, section 5106 required a working group to develop recommendations for a new distribution formula for the MCSAP funds. The MCSAP Working Group has met four times, to date, and FMCSA received the group’s funding formula recommendations on April 7, 2017. Some States expressed concern about moving to a multi-year plan before knowing the

new formula. With these complex changes in progress, FMCSA developed a phased, voluntary implementation plan for multi-year state plans as described below.

Responses to October 2016 Notice

In a notice published October 27, 2016, FMCSA asked 14 questions that would assist the Agency in developing an information technology system form and procedures for submission of a multiple-year plan, *see* (81 FR 74862). Twenty-three States and the Owner Operator Independent Driver Association provided responses.

Regarding questions on the length of the multi-year plan, responses to this question varied with some States indicating that they are not interested in a multi-year plan and some States expressing interest in a 5-year plan. However, the largest number of States recommended a 3-year period. In addition, this time period is the best fit for FMCSA's implementation as explained below.

The majority of the States agreed that the multi-year plan length should be the same for all States. FMCSA agrees that this is the easiest implementation and maintenance solution. In addition, while States indicated that their Strategic Highway Safety Plans (SHSP) vary in length from 1 year to 5 years, almost all respondents commented that there was no safety benefit from aligning the length of these two planning documents because the programs are already aligned through the States' SHSP development processes.

Regarding the accuracy of available data, all States confidently reported that they can provide complete and accurate data, with many States recommending 2 or 3 years for the multi-year plan. These States advised that their responses were specific to their recommended timeframes. These responses confirmed FMCSA's expectations.

Many States recommended changes to the requirements in 49 CFR part 350 and to the electronic Commercial Vehicle Safety Plan (eCVSP) to allow grant application forms to be submitted in one system. FMCSA's goal is one access point for quarterly reporting and eCVSP submissions. The Agency intends to complete these changes as funds are available.

The States were divided about their confidence in multi-year plans that will extend beyond the expiration of the MCSAP authorization. While some States advised that an expiring authorization would not cause them concern, as long as there was an opportunity to adjust the multi-year plan based on any unanticipated impacts, other States responded that they would not be confident in a multi-year plan that went beyond a MCSAP authorization period. However, it seemed that these commenters did not anticipate that there would be required annual updates to the multi-year plan. The Agency clarifies this in this notice.

The number of responses supporting a phased implementation proposal was nearly equal to the responses supporting all States concurrently instituting a multi-year plan. However, FMCSA believes that a phased-in approach will best allow the Agency to test the new eCVSP and make needed modifications as States start using the revised application and updated modules.

The States requested additional elements and features in the multi-year plan. FMCSA will consider these for the FY 2019 eCVSP process. FMCSA determined which eCVSP data fields States must validate or update annually, which include prior-year activity objectives, current-year activity goals, current-year spending plans, etc.

With the exception of the few States that currently want to remain with a 1-year plan; the majority of States agreed that there is no benefit to an annual plan. As described in the Agency's implementation information below, the multi-year plan will be a 3-year plan with information carrying over from one year to the next, where appropriate.

Regarding the requirement for States/Territories to provide detailed spending plans or estimate their costs utilizing the SF-424A budget categories for the multi-year plan and annual update in the eCVSP tool, all of the States' comments supported the use of the SF-424A. Several States commented that the existing requirements for detailed budgets is impractical and results in more changes.

Several States requested changes that require statutory or regulatory updates, such as the period of time the funds are available, the order the funds must be expensed, and the percentage of budget changes allowed without formal Agency approval. These issues are not within the scope of this notice.

Implementation

Phased-In Schedule

FMCSA considered the October 27, 2016, Federal Register Notice comments, the status of the FAST Act Formula Working Group's recommendations, and necessary eCVSP tool modifications. As a result, FMCSA decided that the FY 2018 eCVSP would allow at least 18 States and Territories to complete a multi-year plan based on the States that volunteered. The 3-year plan for this group of States will include FYs 2018, 2019, and 2020. All other States will submit 1-year eCVSP for the FY 2018 MCSAP applications.

Using the experience and feedback of the FY 2018 users, FMCSA intends to make any necessary modifications prior to the FY 2019 eCVSP process. As a result, FMCSA will then solicit another group of States to volunteer to start their 3-year plans by August 1, 2018. The 3-year plan for these States will include FYs 2019, 2020, and 2021. States that did not move to the 3-year plan in FY 2018 or FY 2019 will have the option to complete the 1-year eCVSP.

FMCSA expects that the remaining States will move to the 3-year eCVSP by August 1, 2019. This group of States will complete their 3-year plans for FYs 2020, 2021, and 2022. If a State is unable to transition to a 3-year plan, States can continue to submit 1-year eCVSP until FMCSA decides whether or not to require the multi-year plan.

FMCSA expects that States will remain on one of these 3-year planning cycles, with the States that begin submitting multi-year plans in FY 2017 for FY 2018 grants to submit a complete a 3-year plan again in 2020 for the FY 2021 grants. As a result of distributing State's complete plans across three years and only requiring annual updates, FMCSA anticipates the workload of the States to decrease by 40 percent, as information will carry over (unless authorization requires changes). Additionally, FMCSA expects that this change will improve and expedite the Agency's eCVSP reviews.

First year of the 3-year Plan

FMCSA is modifying the eCVSP to allow States to submit the following information/documentation in the first year of the 3-year plan:

1. eCVSP with program goals for all 3 years;
2. Certification of MCSAP Conformance;
3. Annual Certification of Compatibility;

4. New Laws and Regulations; and
5. Substantiation of Maintenance of Effort (MOE) Calculations.

States will submit the following documentation in the Grants.gov system:

1. SF-424 Application for Federal Assistance;
2. SF-424A Budget Information for Non-Construction Programs;
3. SF-424B Assurances for Non-Construction Programs;
4. Grants.gov Lobbying Form;
5. SF-LLL Disclosure of Lobbying Activities, as required;
6. Key Contacts Form;
7. Indirect Cost Rate Agreement;
8. Title VI Assurance; and
9. Supplemental Attachments.

Second and Third Years of 3-year Plan

In the second and third years of the 3-year plan, FMCSA is planning for States to revise budgets to reflect current costs and revise program goals and certifications, if needed, as part of the annual update and to submit the Substantiation of MOE Calculations.

Unanticipated Funding or Program Changes

FMCSA will require States to update their 3-year plan if there are unexpected changes in funding or authorization resulting in different requirements and will notify States accordingly.

Additional Information

For other information on this program, please see
<https://www.fmcsa.dot.gov/grants/mcsap-basic-incentive-grant/motor-carrier-safety-assistance-program-mcsap-grant>.

Issued on: December 20, 2017.

Cathy F Gautreaux,
Deputy Administrator.

[FR Doc. 2018-00014 Filed: 1/4/2018 8:45 am; Publication Date: 1/5/2018]