

**Department of Transportation
Office of the Chief Information Officer**

**SUPPORTING STATEMENT
STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN**

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) approval for a new information collection request (ICR) titled, "State Commercial Driver's License Program Plan." This plan is required as a result of requirements of Section 32305 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, dated July 6, 2012 (Attachment A). The Act requires that "A State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016."

Part A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The FMCSA is responsible for compliance and oversight of State Driver's Licensing Agencies (SDLAs). SDLAs are required to comply with the requirements of 49 CFR Part 384, titled "State Compliance with Commercial Driver's License Program" (Attachment B). Section 32305 of MAP – 21 amends 49 U. S.C. 31311 (Attachment C) by adding paragraph (d) State Commercial Driver's License Program Plan requirements. In paragraph (d)(1), a State shall submit a plan to the Secretary of Transportation for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016. In paragraph (d)(2) a plan submitted by a State under paragraph (d)(1) shall identify – (A) the actions that the State will take to address any deficiencies in the State's Commercial Driver's License Program, as identified by the Secretary in the most recent audit of the program; and (B) other actions that the State will take to comply with the requirements under subsection (a). Paragraph (d)(3) establishes the following – "(A) Implementation Schedule – A plan submitted by a State under paragraph (d) (1) shall include a schedule for the implementation of the actions identified under paragraph (d)(2). In establishing the schedule, the State shall prioritize actions to address any deficiencies highlighted by the Secretary as critical in the most recent audit of the program. (B) Deadline for Compliance with the requirements. A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2015.

This collection of information supports the DOT strategic goal of safety by requiring the States to assure that drivers of CMVs are properly licensed according to all applicable Federal requirements

2. HOW, BY WHOM, AND FOR WHAT PURPOSE IS THE INFORMATION USED

States will be required to complete a Commercial Driver's License Program Plan using a Microsoft Excel spreadsheet (Attachment D) that will be provided by FMCSA to each SDLA. The spreadsheet has been docketed and is available for immediate public consideration at the location <http://www.regulations.gov/#!documentDetail;D=FMCSA-2014-0133-0007> as item 7.

The Commercial Driver's License Program Plan will be completed by the State and provided to FMCSA's Commercial Driver's License Division via electronic transmission to the Automated Compliance Review System (ACRS), for review and concurrence. FMCSA will reject the plan and require the State to modify and resubmit, if FMCSA determines that the Commercial Driver's License Program Plan does not meet the requirements. Within the Commercial Driver's License Program Plan, the State will identify any deficiencies and provide assurances of how the State will obtain compliance by September 30, 2015, and remain in compliance through September 30, 2016. This will enable FMCSA to determine a State's level of compliance with the Commercial Driver's License (CDL), requirements. Previous to MAP -21, there was no requirement for a SDLA to submit a Commercial Driver's License Program Plan.

3. EXTENT OF AUTOMATED INFORMATION COLLECTION

The spreadsheet has been developed by FMCSA. The spreadsheet will be sent to each SDLA. 100 percent of the SDLAs will complete the spreadsheet and send it directly to FMCSA via electronic transmission via the ACRS. FMCSA will then review each Commercial Driver's License Program Plan to assess each State's level of compliance with the CDL requirements. Appropriate feedback will be provided from FMCSA to each State after review. FMCSA will determine if the State's Commercial Driver's License Program Plan meets the addresses any and all deficiencies and provides assurances that the State will remain in compliance through September 30, 2016.

4. EFFORTS TO IDENTIFY DUPLICATION

There are no similar filings made with any other Federal agency or within the Department of Transportation which would result in duplication of this information. This filing is a one-time request by the Secretary of Transportation, that is based upon Section 32305 of MAP-21 reauthorization. The plan requires the States to provide information that the State is in compliance with all Commercial Drivers Licensing requirements and provide assurances that the State will remain in compliance through September 30, 2016.

5. EFFORTS TO MINIMIZE THE BURDEN ON SMALL BUSINESSES

There is no paperwork burden for small businesses. This information collection would be obtained from State Driver's Licensing Agencies only. The information collected is the minimum necessary to meet the requirements of Section 32305 of MAP- 21. The State Driver's Licensing Agencies will be provided a spreadsheet through the Automated Compliance Review System (ACRS). The State will complete the spreadsheet in any format that they choose and upload the information to FMCSA through the ACRS.

6. IMPACT OF LESS FREQUENT COLLECTION OF INFORMATION

Section 32305 of MAP-21 only requires a one-time submittal of the State plan by each State.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances related to this ICR.

8. COMPLIANCE WITH 5 CFR 1320.8:

On November 13, 2014, FMCSA published a notice in the Federal Register (79 FR 67541) with a 60-day public comment period to announce this ICR (See Attachment E). Four comments were received in response to this notice and have been placed in the public docket at <http://www.regulations.gov/#!home>. A summary of the comments and FMCSA's responsive considerations are as follows:

COMMENTS FROM THE PUBLIC

General Summary

Comments were received from the Nebraska Department of Motor Vehicles, New York Department of Motor Vehicles, Colorado Department of Revenue, and North Carolina Department of Transportation. Comments and responsive considerations are as follows:

Nebraska Department of Motor Vehicles:

The Nebraska Department of Motor Vehicles commented that the proposed rule indicates that States will be required to complete a Commercial Driver's License Program Plan using a spreadsheet or pdf document that will be provided by FMCSA to each SDLA. The Plan will be completed by the State and provided to FMCSA's Division via the Automated Compliance Review System (ACRS), for review and concurrence. The Nebraska DMV recommends that the desired information be placed on ACRS for entry by the SDLA in lieu of the paper spreadsheet or pdf document being used. The proposed rule states that FMCSA estimates that each SDLA would need approximately 40 hours to complete the State Commercial Driver's license Program Plan. The Nebraska DMV already spends an inordinate amount of time working on CDL federal requirements. The Nebraska DMV questions the value of a spreadsheet that takes 40 hours to complete as SDLAs have other responsibilities besides the CDL Program. Quantity does not necessarily equate to quality. The proposed rule says that the spreadsheet was developed by FMCSA. However, it is not attached to this proposed rule. The Nebraska DMV suggests that the SDLAs be allowed to comment on the information being gathered and the tool used to gather the information. This promotes a better understanding by the SDLAs in knowing what is needed, why it is needed and may after comments, help FMCSA reduce duplication of information, and understand why the spreadsheet may not be relevant or needed. It is difficult to provide feedback and comments on a document sight unseen.

FMCSA Response:

The FMCSA agrees with Nebraska's recommendation that the ACRS should be utilized to its fullest capacity to complete the State Plan. FMCSA's intends to utilize ACRS to deliver the spreadsheet to each SDLA. The SDLA will be able to download, complete and sign the document and re-upload via the ACRS State Plans function. The ACRS State Plan

functionality was added to ACRS to allow for the system to be used to meet the State Plan requirement, as well as to mitigate the burden on the State's resources. ACRS's functionality limitations due to the age of the system and the platform it is built on, prevents the use of the system to complete a State Plan within ACRS.

The FMCSA does not expect it to take 40 hours for every CDL Coordinator to complete the spreadsheet. The estimation was an average based upon the differences in complexities and extent of compliance deficiencies of the various 51 SDLA, in regards to the number of existing compliance findings. This estimation also assumes completion by a new CDL Coordinator with limited experience. In creating the spreadsheet, FMCSA took into consideration the demands being placed upon the SDLAs and attempted to implement the most efficient and least demanding process to meet the MAP 21 requirement.

The spreadsheet was developed as a requirement of MAP 21. Though the spreadsheet was not attached to the Notice, the requirements and information that will be collected on the spreadsheet is described in detail within the Notice. The spreadsheet has since been docketed and is available for immediate public consideration at the location <http://www.regulations.gov/#!documentDetail;D=FMCSA-2014-0133-0007> as item 7.

New York Department of Motor Vehicles

The New York Department of Motor Vehicles stated that its opinion is that the ICR is unnecessary for the performance of FMCSA's functions in that the information requested to be collected from the Commercial Driver's License Program Plan is already made available to FMCSA via the ACRS System. New York has maintained updates to our audits and annual program review action plans and fails to understand why FMCSA needs states to duplicate information that is already supplied to them.

The New York DMV also commented on the MAP-21 compliance date of September 30, 2015. New York stated while it is working diligently towards that goal, the deadline is unrealistic, considering the many obstacles New York and the other states face. New York does not understand why a deadline is even essential, in that all of New York's Action Plans listed on ACRS include our estimated completion dates for each project. With FMCSA changing from a 3 year CDL Program Review to an annual review, deficiencies are discovered earlier and therefore, corrected earlier, helping the states to achieve compliance. Over the last six years, FMCSA has published two major rulemakings and numerous smaller rulemakings related to the CDL Program. FMCSA has indicated that more Final rulemakings are to be published within the year. Due to strained fiscal circumstances states have scarce resources, making it difficult to implement the significant number of changes in order to fully comply with all the federal requirements by the regulatory deadline. Both New York's ITS staff that maintain our CDL programs and the DMV business units that administer the programs are severely challenged in complying with the complexity and enormity of federal regulation. At the same time, such staff must continue to serve our many clients, including eleven and a half million licensed drivers, a half million of which hold a CDL the complexity of the CLP rule is reflected in the monthly CLP Permit Rule Roundtable, where states and the FMCSA discuss issues and concerns about the rule. FMCSA continues to modify its interpretation of the rule. Which causes implementation delays for the states. New York would like to petition for the elimination of a deadline for full State compliance, or if one absolutely needs to be established, an extension of the September 30, 2015 full compliance date, for at a minimum, another year (September 30, 2016). New York is dedicated to

fulfilling all the necessary requirements needed to obtain full compliance and we are reiterating that our mission is to make our highways safe for all drivers and for all types of operations. The elimination or extension of the deadline would allow more time for states to ensure the accuracy of all final programming and procedural changes.

FMCSA Response

The FMCSA notes that the State Plan is in response to the mandated MAP 21 requirement. The FMCSA understands that similar information currently exists within ACRS. As a result, this information collection and the spreadsheet were developed so that the States do not have to provide duplicative information that already exists within ACRS, but only reference it. This approach allows the State to provide the assurances required by MAP 21, that the State will remain in compliance through September 30, 2016.

The September 30, 2015 compliance date is a MAP 21 requirement. The FMCSA understands that States have existing action plans that have been approved by FMCSA in ACRS. As previously stated FMCSA has attempted to mitigate redundant work by a State. The FMCSA has created a spreadsheet that allows a State to refer to an existing (approved) action plan within ACRS when referring to a deficiency or finding. The spreadsheet will also meet the additional MAP 21 requirement for a State to provide assurances that they will remain in compliance through September 30, 2016.

Colorado Department of Revenue

The Colorado Department of Revenue stated that it wholeheartedly appreciates and supports FMCSA's mission of promoting highway safety, preventing accidents and getting the bad driver off the road. Colorado also, within reason, agrees with FMCSA's approach of making each SDLA responsible for their individual CDL program. However, within this proposal there are some concerns. Colorado is concerned that there is no disclosure of what will be contained in the proposed spreadsheet. Additionally, regarding data accuracy there is no indication as to what level of error constitutes a compliance issue. Colorado feels that there should be an opportunity to comment on all information that will be contained in the proposed spreadsheet and what will meet compliance and what will not. Moving forward, Colorado would like a better understanding as to the relationship between what is contained in the proposed spreadsheet and the Annual Performance Review (APR). Will both documents still be required and will they be done at the same time? Colorado would also like clarification as to whether the 40 hours discussed in the proposed rule also covers time spent completing the APR documents. Colorado would hope that effort to prevent duplicity has been made. Colorado would also like clarification on this remark. The program plan is completed on a one time basis as required by section 32305 of MAP21. There is no continuing information collection function associated with submitting the Program Plan. What does this mean? Overall, to fully comment on this proposal, Colorado would like a better understanding as to what FMCSA is going to require from the SDLAs regarding what is compliance and what a SDLA will have to do to remain or get into compliance and how long they will have to do so.

FMCSA Response:

When developing the spreadsheet to meet the MAP 21 requirement, FMCSA decided upon an approach that would limit the amount of duplicity and redundancy of the various FMCSA requirements. Specifically, the spreadsheet focuses on each specific section of 49 CFR Part 384 and asks the question if the State is in compliance with each requirement? If

not, the follow-up question is, does a State have an approved Action Plan within ACRS? If yes, then the State has fulfilled that specific requirement. If not, then the State would have to provide an action plan for each compliance finding or deficiency within the spreadsheet that does not have an approved action plan within ACRS. A finding or deficiency is an instance where the State is not in compliance with a particular part of the regulations. This could be from any number of activities, including an Annual Program or Skills Test Review, a review of a State's data, and operation performance, a comprehensive compliance review, or any other means by which FMCSA may become aware that a State is not in compliance. This particular aspect has not changed by the State Plan requirement, and the publishing of this ICR. The State Plan requirement is not a reoccurring requirement. MAP 21 required the submittal of a State Plan one time.

North Carolina Department of Transportation

The North Carolina Department of Transportation stated that it contends that the requirement to submit the CDL Program Plan is redundant since this information is already available to FMCSA on ACRS. This requirement places an additional burden on the states when efforts are needed most to work toward compliance with the regulations.

FMCSA Response:

The FMCSA has developed the spreadsheet to eliminate redundancy and limit the amount of time and effort for each State to complete and to comply with this requirement. In addition, the MAP 21 requirement for States to provide assurances that they will remain in compliance through September 30, 2016 is not information that is currently available to FMCSA.

On May 28, 2015, FMCSA published a notice in the Federal Register (80 FR 30529) with a 30-day comment period and to announce FMCSA's plan to submit this ICR to OMB for approval (See Attachment E).

9. PAYMENTS OR GIFTS TO RESPONDENTS

Respondents are not provided with any payments or gifts for this collection of information.

10. ASSURANCE OF CONFIDENTIALITY

This collection of information will be kept private to the extent allowed by law.

11. JUSTIFICATION FOR COLLECTION OF SENSITIVE INFORMATION

The information requested and collected is not of a sensitive nature.

12. ESTIMATE OF BURDEN HOURS FOR INFORMATION REQUESTED

FMCSA estimates that each State would need approximately 40 hours to complete the State Program Plan and submit to FMCSA.

The Plan is completed on a one-time basis as required by section 32305 of MAP-21. There is no continuing information collection function associated with submitting this Plan. The Plan asks for information which is readily available to the filer.

Estimated Annual Number of Responses: 51 (SDLAs)
Estimated Annual Number of Respondents: 51 (SDLAs)
Estimated Total Annual Burden: 2,040 hours [51 responses x 40 hours = 2,040 hours].

13. ESTIMATE OF TOTAL ANNUAL COSTS TO RESPONDENTS

The FMCSA believes that there would be no additional annual costs to the SDLAs.

14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT

The State CDL Program Plan will be reviewed and processed by a GS grade 13, step 5 Transportation Specialist in Washington, D.C. and a GS grade 14, step 5 Transportation Specialist in Saint Albans, WV. Based on the OPM Salaries and Wages website for the General Schedule Pay table for 2014, a GS grade 13, step 5 earns \$101,914 per year including locality pay. Whereas a GS grade 14, step 5 earns \$110,676 per year in locality pay.

Estimated hourly pay = \$49.00 (\$101,914 per year / 52 weeks per year / 40 hours per week = \$49.00/hour) for the GS-13 and \$53.21 (\$110,676 per year / 52 weeks per year / 40 hours per week = \$53.21/hour) for the GS 14.

FMCSA estimates that reviewing and processing each State Program Plan will take approximately 4 hours for each State Program Plan including any changes requested by FMCSA.

Estimated Total Annual Cost to Federal Government: \$10,333 [(4 hours to review and process each State Program Plan x 31 State Program Plans x \$49.00 hourly wage for GS grade 13, step 5 Transportation Specialist = \$6,076.) and (20 State Program Plans x \$53.21 per hour for the GS-14, step 5 to review = \$4,256.80) = \$10,332.80 rounded to \$10,333]

15. EXPLANATION OF PROGRAM CHANGES OR ADJUSTMENTS

This program change increase of an estimated 2,040 annual burden hours is due to a new ICR for the one-time requirement for SDLAs to submit a State Program Plan.

16. PUBLICATION OF RESULTS OF DATA COLLECTION

The information collected is not intended for publication or use complex analytical techniques.

17. APPROVAL FOR NOT DISPLAYING THE EXPIRATION DATE OF OMB APPROVAL

FMCSA is not seeking approval to not display the expiration date of OMB's approval of the information.

18. EXCEPTIONS TO CERTIFICATION STATEMENT

No exceptions to the certification statement are requested.