

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2023–0190]

**Proposed Revisions to DataQs Requirements for MCSAP Grant Funding**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice; response to public comments and request for comments on new proposal.

**SUMMARY:** FMCSA addresses comments received in response to the Agency's **Federal Register** notice titled, "Appeal Process: Requests for Data Review." In addition, FMCSA proposes revisions to the DataQs requirements for Motor Carrier Safety Assistance Program (MCSAP) Grant funding in response to the comments and announces a 60-day comment period.

**DATES:** Comments must be received on or before September 2, 2025.

**ADDRESSES:** You may submit comments identified by docket number FMCSA–2023–0190 using any of the following methods:

- **Federal eRulemaking Portal:** Go to: <https://www.regulations.gov/docket/FMCSA-2023-0190/document>. Follow the online instructions for submitting comments.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- **Fax:** (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Scott Valentine, Data Quality Program Manager, Analysis Division, Office of Analysis, Research and Technology, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4869, [Scott.Valentine@dot.gov](mailto:Scott.Valentine@dot.gov). If you have questions regarding viewing or

submitting material to the docket, contact Dockets Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:****I. Public Participation and Request for Comments***A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA–2023–0190), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2023-0190/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

**Confidential Business Information (CBI)**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA), 5 United States Code (U.S.C.) 552, CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at [brian.g.dahlin@dot.gov](mailto:brian.g.dahlin@dot.gov). At this time, you need not send a duplicate hardcopy

of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

*B. Viewing Comments and Documents*

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2023-0190/document> and choose the document to review. To view comments, click this notice, then click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

*C. Privacy*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](https://www.regulations.gov). As described in the System of Records Notices, DOT/ALL 14—Federal Docket Management System, which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

**II. Background**

DataQs is the online system for motor carriers, commercial motor vehicle (CMV) drivers and other interested parties to request and track a review of Federal and State crash and inspection data submitted to and stored by FMCSA that the requester believes is incomplete or incorrect. This system is critical to allowing users to ensure the data FMCSA maintains on them is accurate and complete. Users can review their own data and request corrections to erroneous or incomplete data records.

On September 14, 2023, FMCSA proposed the development and implementation of a federal appeals process for Requests for Data Review (RDRs) submitted to the Agency through its DataQs system (88 FR 63195, FR notice).<sup>1</sup> FMCSA also announced a 60-day comment period in the FR notice. The comment period closed on

<sup>1</sup> You may view the notice and the comments received at <https://www.regulations.gov/docket/FMCSA-2023-0190>.

November 13, 2023. The proposed appeals process was intended to benefit users by ensuring appeals are reviewed in an independent and thorough manner, as well as providing timelines for when the initial request and appeals process should be completed.

### III. Summary of Public Comments and Response

FMCSA received 54 docket comments in response to the FR notice. Of these, 42 submissions contained comments specifically on the changes proposed in that FR notice. The commenters included motor carriers, drivers, owner-operators, industry associations, safety consultants, and members of the enforcement community. The following entities submitted comments on the proposed changes: American Bus Association (ABA), American Trucking Associations (ATA), Coca-Cola Beverages Florida, LLC, Compass Coach Inc., Commercial Vehicle Safety Alliance (CVSA), Dedicated Logistics, LLC, Gateway RB Transport LLC, Gemini Motor Transport LP, Greyhound Lines, Inc. (Greyhound), Halvor Lines, Inc., Hampel Oil Distributors, Henry Seaton on behalf of a group of organizations,<sup>2</sup> Jacam Catalyst LLC, Legacy Express LLC, Minnesota Trucking Association (MTA), National Association of Small Trucking Companies (NASTC), National Tank Truck Carriers (NTTC), Owner-Operator Independent Drivers Association (OOIDA), Railsback HazMat Safety Professionals (Railsback), LLC, Rio Valley Biofuel Transport, Royal Logistics, INC, Safety Compliance & Training LLC, Suarez Transportation Inc., Trucker Nation, Truckload Carriers Association, United Motorcoach Association (UMA), Veolia North America, Lewis Britton, Timothy DeWitt, Richard Goins, Jim Morgan, Dennis Tant, Patrick Weinbauer, and Dan Willis. Comments outside the scope of this proposal are not discussed in this notice.

The majority of the comments were balanced in tone and supportive of FMCSA's proposal to develop and implement a federal appeals process for RDRs. Many of the commenters provided suggestions on improving the

proposed appeals process and DataQs program more broadly. These recommendations covered three categories: calls to improve the impartiality of the RDR process, suggested approaches for the federal appeals process and the DataQs program, and requests to enhance the timeliness of RDRs.

The following sections provide a summary of the comments received and the Agency's responses.

#### A. Impartiality of the RDR Process

Thirty commenters asked that FMCSA improve the impartiality of the RDR process. Of those, thirteen commenters (NASTC, NTTC, OOIDA, Trucker Nation, UMA, Railsback, Hampel Oil Distributors Inc., Jacam Catalyst LLC, Jim Morgan, Hotshot Trucking Shows USA, Legacy Express LLC, Rio Valley Biofuel Transport, and one anonymous commenter) took issue with RDRs being reviewed by the officer, inspector, or agency that performed the inspection or issued the violation. NTTC stated that "there are many times that an inspector refuses to make a correction despite evidence that they made a mistake," while NASTC and Trucker Nation offered recommendations to improve impartiality during the Initial RDR. NASTC stated that FMCSA should require States to "establish adjudication by independent third parties and to disallow involvement in adjudication by any state or local body or other party with [an] actual or appearance of conflict of interest, such as review by the issuing officer or his or her supervisor." Trucker Nation added that the "issuing officer [should] serve ONLY as an information source for the analyst/adjudicator who is assigned to the RDR" to enhance the objectivity of the RDR process.

Regarding requests asking that the RDR be reviewed again after the initial decision on the RDR (RDR reconsideration), six commenters (ABA, ATA, Gemini Motor Transport LP, Greyhound, OOIDA, and Veolia North America) recommended that FMCSA's proposed State guidelines include a requirement that RDR reconsideration requests be addressed by a reviewer(s) different than the initial reviewer. OOIDA stated "We feel the proposed guidelines must include requirements to ensure and certify that each reconsideration request is addressed by a different reviewer than the person who performed the initial review of the RDR." Other commenters above echoed this sentiment. In addition, four commenters (Lewis Britton, Richard Goins, Jim Morgan, and NTTC) indicated that these RDR

Reconsideration requests be handled by neutral independent parties or panels.

Eight commenters (ABA, ATA, CVSA, Greyhound, NTTC, OOIDA, Trucker Nation, and Royal Logistics INC) voiced concerns about the differences in how States address RDRs and called for a standard nationwide process. CVSA "concur[s] with the motor carrier community that there are inconsistencies in how the states treat DataQs and that additional standardization is appropriate." Greyhound added that "FMCSA should require, not just suggest, that all states adopt it. For nationwide carriers like Greyhound, such uniformity is necessary in order to avoid confusion and unnecessary administrative burdens." Trucker Nation echoed these comments stating "[e]stablishing a standardized review process at the State agencies is crucial for ensuring consistency, fairness, and transparency in decision-making across all State agencies." Trucker Nation also recommended that adoption of this standardized review process be a requirement for MCSAP Grant funding. ABA added that this standard process should include "both initial requests and reconsideration requests [because] there must be a uniform system of independent reconsideration at the State level, if the bias is to be addressed."

Seven commenters (Compass Coach Inc., Gemini Motor Transport LP, Hampel Oil Distributors Inc., Trucker Nation, and others) claimed to have RDRs closed without explanation, which led to assumptions of bias in the review process. Trucker Nation noted "motor carriers are often not afforded the explanation of what actions were taken to reach a determination because a lack of information is received from officers." Trucker Nation also recommended that FMCSA develop procedures to ensure RDRs are completed using the same process and that the process clearly shows carriers the steps taken to reach the decision.

#### FMCSA Response

FMCSA acknowledges commenters requested more impartiality, uniformity, and transparency in the RDR process. After careful review and consideration of these comments, FMCSA has determined its initial proposal for a federal-level appeals process would not sufficiently address the due process issues that currently exist with State-reviewed RDRs. Instead, FMCSA is proposing an approach to improve the fundamental fairness of the RDR process by implementing sufficient process guardrails for States. Changes would benefit users by ensuring appeals are

<sup>2</sup> Organizations include Air and Expedited Motor Carriers Association (AEMCA), Airforwarders Association (AfA), Alliance for Safe, Efficient, and Competitive Truck Transportation (ASECTT), American Home Furnishings Alliance (AHFA), Apex Capitol Corp, Auto Haulers Association of America (AHAA), CDL Drivers Unlimited, Specialized Furniture Carriers, The Expedite Association of North America (TEANA), Transportation & Logistics Council (T&LC) and Transportation Loss Prevention and Security Association (TLP&SA).

reviewed in an independent, impartial, uniform, and transparent manner, as well as providing timelines for the initial request and appeals process.

FMCSA is also proposing revisions to the MCSAP Grant requirements in Section IV of this notice in response to commenters' feedback regarding improving the impartiality, uniformity, and transparency in the RDR process. These revised requirements would provide necessary guardrails for the RDR process, accountability for States, and empower States to take more complete ownership of their DataQs programs.

#### *B. Suggestions for RDR Process*

Ten commenters (ABA, Coca-Cola Beverages Florida, LLC, CVSA, Gemini Motor Transport LP, Greyhound, MTA, OOIDA, Trucker Nation, UMA, and Veolia North America) called for FMCSA to expand the scope of RDRs eligible for the federal appeals process. CVSA stated, "it is [not] practical to go through the effort that will be involved in establishing and maintaining this federal appeals process if it will not address the majority of the RDRs that would be submitted." OOIDA recommended that RDRs eligible for the federal appeals process should include those "related to Crash/Inspection/Investigation/Audit, Registration (MCS-150)/Licensing & Insurance/Operating Authority (OP-1, OP2), Household Goods (HHG) Complaints, and Drug and Alcohol Clearinghouse Violation Petitions . . . [and] any factual disputes between parties that have not been settled during the initial review processes." Trucker Nation went a step further, stating that "ALL violation types should be afforded the opportunity for appeal."

Unlike the commenters above, ATA supported the limited scope of the federal appeals process proposed in the FR notice. ATA noted that "members raised concerns that allowing all RDRs could create a myriad of submissions that lead to an ineffective independent review process." ATA also suggested that the Agency treat DataQs like the Crash Preventability Determination Program (CPDP) and propose enhancements/expansion based on industry comment and feedback.

Six commenters (Gemini Transport LP, Lewis Britton, NTTC, OOIDA, Trucker Nation, and UMCA) recommended using review panels in the federal appeals process and suggested criteria for those panels. NTTC stated that the appeal panel should include members with "some level of ground transportation experience [and a] basic understanding

of mechanics, trucking, and maintenance." Both OOIDA and Trucker Nation added that the panel should include industry representation. OOIDA specifically outlined a five-member review panel with "two representatives of a state commercial motor vehicle enforcement agency, one representative of a state department of transportation, one representative of a motor carrier, and one representative of a driver." Gemini Transport LP suggested the panel could be made up of safety and compliance specialists or professionals trained to operate with a non-biased perspective.

Four commenters (ATA, CVSA, OOIDA, and Trucker Nation) requested that FMCSA share federal appeals decisions publicly. ATA "encourages the Agency to publish, on the DataQ website or other publicly-available site, summaries of RDRs that are received at the federal level for independent review and the resulting determination." ATA also recommended that the Agency publish quarterly statistics on determinations, similar to CPDP. CVSA and OOIDA echoed ATA's suggestion for public dissemination of RDR decisions and statistics. CVSA specifically suggested that these decisions be posted on the DataQs and CSA websites.

Four commenters (ABA, MTA, OOIDA, and UMA) recommended that FMCSA remove all data related to an active RDR from public websites until an outcome is decided. OOIDA stated "no data related to an active DataQs challenge should be posted on MCMIS, SMS, or any other Agency system." ABA, MTA, and UMA concurred with this view.

#### *FMCSA Response*

FMCSA acknowledges that the federal appeals process proposed in the FR notice was narrow in scope by only reviewing requests pertaining to interpretation of regulations and policies, leaving many RDRs to be reviewed under processes that exist today. Regarding the scope of eligible RDRs, FMCSA's proposal in Section IV of this notice (Proposal: Revised DataQs Requirements for MCSAP Funding) includes defined processes at each stage of review that will apply to all RDRs submitted for State-collected data in DataQs.

FMCSA concurs with the comments calling for the use of a panel in the RDR process. FMCSA's proposal outlined in Section IV of this notice includes requirements for the use of a panel of subject matter experts in the decision-making process for RDR

Reconsideration and Final Review requests.

FMCSA is committed to increasing awareness and understanding of the DataQs process among users. As part of FMCSA's proposal outlined in Section IV, the Agency would require that each State submit a DataQs Implementation Plan detailing their RDR processes and procedures. Approved plans would be made available to the public on the DataQs website to promote transparency and reasonable expectations. In addition, FMCSA is proposing that the responses for closed (those in which a decision has been issued) RDRs include explanatory reasons for the decision so that users can better understand the decision-making process and interpret the State's conclusions. As this proposal is State-centered and does not include centralized federal review, decisions from RDRs would not be posted publicly on FMCSA website but would be available to the parties involved with the RDR.

Finally, FMCSA does not agree with the suggestion to remove all data related to pending RDRs from public view. Removing this data creates opportunities for requestors to "improve" their safety records in the short term by submitting frivolous RDRs, which would impact the efficacy of the DataQs program and other FMCSA safety programs. FMCSA will continue to display all motor carrier safety data (*i.e.*, crashes, inspections, and investigations) on its websites.

#### *C. Timeliness of RDR Process*

Ten commenters (ABA, ATA, Dedicated Logistics, Greyhound, Halvor Lines, MTA, OOIDA, Trucker Nation, UMA, and Veolia North America) voiced concerns around the timeliness of the current RDR process. ABA, Greyhound, and Halvor Lines, Inc. all agreed that establishing deadlines would improve the effectiveness of the RDR process. ABA noted, "If appropriate deadlines are not established, the process will be ineffectual, and both the MCMIS data will suffer as well as the regulated community." Greyhound added that "reasonable time limits should be imposed on the initial RDR decision and the decision on reconsideration." OOIDA and MTA suggested specific timelines. OOIDA recommended that all RDRs be decided within 60 days of the initial request, the initial review and RDR Reconsideration be completed within 30 days, and the federal appeal review (if approved) should be completed within 30 days. MTA suggested that States have one week to complete their review of the RDR.

ATA went a step further and recommended that FMCSA provide “an outline of the expected review-time once the RDR is received at the federal level, the steps the Agency is taking to address the backlog of current RDRs, and how the program implementation will be handled.”

#### FMCSA Response

FMCSA agrees that the timeliness of RDRs is important to the DataQs program and other safety programs. Timely, accurate, and complete data advances the Agency’s safety mission and leads to safer roads. FMCSA’s proposal outlined in Section IV of this notice includes timeline standards for each stage of RDR review. These standards aim to improve the timeliness of the RDR process by requiring States to open, review, and communicate a decision within 21 days of the requestor’s submission of an RDR and RDR Reconsideration requests, and within 30 days of the requestor’s submission for Final Review requests.

#### IV. Proposal: Revised DataQs Requirements for MCSAP Funding

In response to the stakeholder feedback provided, FMCSA is proposing revisions to the DataQs requirements for MCSAP grant funding to ensure proper due process for users of the DataQs system. These requirements aim to improve the impartiality, timeliness, transparency, and fundamental fairness of the RDR process, thereby strengthening FMCSA’s ability to make data-driven decisions that inform resource allocation, policy changes, and new initiatives to prevent large truck and motorcoach-involved crashes and enhance safety on the nation’s roads. The requirements would apply to requests submitted in DataQs on State-owned data; they would not apply to federally-owned data, *i.e.*, requests submitted to CPDP, petitions submitted to the Drug and Alcohol Clearinghouse Program, or other FMCSA offices.

FMCSA’s proposal would require States to incorporate a multi-level review process for RDRs, escalating the review from the DataQs analyst in the State MCSAP Lead Agency to a responsible decision-maker or panel of subject matter experts. Each RDR would be evaluated based on the documentation and evidence provided by the submitter of the RDR, along with any State documents or evidence. States would be encouraged to adopt a multi-level review process appropriate for their agency(s) structure to support independent evaluation of the request. This multi-level review process would benefit the ability for requestors to get

a fair and thorough response with assessment from multiple evaluators within a State. Each State would be required to submit a DataQs Implementation Plan to FMCSA detailing how their agency will meet FMCSA’s requirements for each stage of the RDR review process. The proposed requirements for the RDR review process are outlined below.

#### General Requirements

- States must establish points of contact for crash and inspection RDRs.
- States must accept and conduct a good faith review of all inspection-related RDRs that are submitted within 3 years from the date of inspection and, for all crash-related RDRs, for 5 years from the date of a crash.
- States must follow FMCSA’s policy related to Adjudicated Citations.<sup>3</sup>
- State MCSAP Lead Agencies must submit a DataQs Implementation Plan for how the agency will meet the objectives and requirements of the Initial Review, Reconsideration Review, and Final Review processes. In addition, the plan must outline how the agency will address any existing backlog of RDRs and what steps they will take to prevent a potential backlog moving forward.
- States must submit an Initial DataQs Implementation Plan that must be approved by FMCSA. Updates to the plan must be submitted as part of the annual Commercial Vehicle Safety Plan (CVSP) process. If changes do not meet FMCSA’s requirements, FMCSA will notify the State, and the previous version of the plan will remain in effect until the State obtains FMCSA approval of any changes. Approved plans would be made available to the public through DataQs.
- States must participate in FMCSA program reviews of their DataQs processes and procedures, as required for current existing MCSAP programs.

#### State Plan Requirements

##### Initial Review Process Requirements

- States must open an RDR within seven days of submission. The status of the RDR would then change from “New” to “Open—In Review.”
- States must respond to the RDR, either to request additional information or communicate a decision, within 21 days of submission.
- If the State requests additional information from the requestor, the

requestor has 14 days to provide the information. These 14 days do not impact the timeline for the State’s review. The clock will stop while the requestor gathers additional information and will restart if the requestor responds to the State. If the requestor does not respond, the system will close the request with the status “Closed—No Requestor Response.” A request that is reopened after being closed for no response will be reviewed at the level it was closed, and not escalated.

- The issuing officer or inspector cannot be the sole decision-maker when the outcome of the RDR is “Closed—No Data Correction Made.”

- Each RDR closed with the status “Closed—No Data Correction Made” must adequately explain the facts and analysis supporting the decision. Responses must contain the following information:

- Description of or link to the State’s approved DataQs Implementation Plan;
- Decision-maker (name and title);
- List of evidence reviewed;
- Decision;
- Specific reason(s) for decision; and
- Next steps/directions for more information (RDR Reconsideration process).

#### RDR Reconsideration Review Process

- The RDR Reconsideration process is applicable to requests that received a full review and a decision during the Initial Review phase, and the requestor is seeking an additional level of review. It would not include requests that are closed due to lack of information, or those reopened without a valid reason.

- States must open a RDR Reconsideration request within 7 days of the request.

- As in the Initial Review process, if the State requests additional information from the requestor during the RDR Reconsideration, the requestor has 14 days to provide the information. These 14 days do not impact the timeline for the State’s review. The clock will stop while the requestor gathers additional information and will restart if the requestor responds to the State. If the requestor does not respond, the system will close the request with the status “Closed—No Requestor Response.”

- States must reach a decision and communicate it to the submitter within 21 days.

- The RDR Reconsideration must be reviewed and decided by a person or panel with appropriate subject matter expertise within the MCSAP Lead Agency.

- The RDR Reconsideration must not be reviewed or decided by the issuing

<sup>3</sup> Further information about the FMCSA policy is available at <https://www.federalregister.gov/documents/2014/06/05/2014-13022/motor-carrier-management-information-system-mcmis-changes-to-improve-uniformity-in-the-treatment-of>.

officer or inspector, nor a direct supervisor of the issuing officer or inspector.

- Legal review should be incorporated, where applicable.
- Each RDR Reconsideration closed with the status “Closed—No Data Correction Made” must adequately explain the facts and analysis supporting the decision. Responses must contain the following information:
  - Decision-maker (name and title);
  - Description of evidence reviewed;
  - Decision;
  - Specific reason(s) for decision; and
  - Next steps/directions for more information (Final Review process).

#### Final Review Process Requirements

- The Final Review process is applicable to requests that received a full review and a decision during the Initial Review phase, RDR Reconsideration phase, and the requestor is seeking a third and final level of review. States must open a Final Review request within seven days of the request.
- As in the Initial Review and RDR Reconsideration processes, if the State requests additional information from the requestor during the Final Review, the requestor has 14 days to provide the information. These 14 days do not impact the timeline for the State’s review. The clock will stop while the requestor gathers additional information and will restart if the requestor responds to the State. If the requestor does not respond, the system will close the request with the status “Closed—No Requestor Response.”
- States must reach a decision on the Final Review and communicate it to the submitter within 30 days.
- The Final Review must be escalated for review by a responsible decision-maker identified by the State (e.g., Senior Leader in the MCSAP Office) who is outside the chain of command for the issuing officer or inspector. Alternatively, the review may be delegated to a panel that provides a recommendation to the decision-maker. Panels could include representatives from the State’s existing DataQs Review Council, CVSA, or the trucking industry, etc. However, the person(s) or panel reviewing and/or deciding the Final Review must not be anyone involved in the review or decision of the Initial RDR decision or RDR Reconsideration decision.
- The State’s decision would be considered final by FMCSA after the Final Review is completed.
- FMCSA will be available to consult during the RDR Reconsideration or Final Review processes if a State

requests FMCSA’s assistance or interpretation of the Federal Motor Carrier Safety Regulations, Hazardous Materials Regulations, or related policy.

#### Burden of Proof Applicable to RDRs, RDR Reconsideration Requests, and Final Review Requests

- The burden of proof for all requests within DataQs (RDRs, RDR Reconsideration Requests, and Final Review Requests) remains with the requester. Requests to remove or modify information that negatively impacts the requester or others will not be successful without factual and/or legal justification of why the information is incorrect or incomplete, providing documentation supporting the request when necessary.
- Unsubstantiated requests may be returned to the requester for more information or closed with no action taken. Requests that are closed for no response from the requester will not be deemed a substantive decision by the State and may be reopened once a sufficient response is received.
- For RDR Reconsideration Requests and Final Review Requests, requesters must address the State’s factual and/or legal basis for the decision and explain why the requestor believes the decision to be incorrect, with submission of additional documentation supporting the request when necessary.

#### V. Comments Sought

FMCSA seeks comments on the proposal described above. In addition, the Agency is asking for input on the following questions related to the proposal:

1. FMCSA outlined proposed revisions to DataQs requirements for MCSAP Grant funding in Section IV above. What are the potential benefits associated with this proposal? What are the potential challenges?
2. What challenges, if any, will States face in adhering to the timelines for each stage of the RDR process outlined above? Are there any other factors FMCSA should consider related to timelines?
  - a. FMCSA proposes that the time an RDR spends with the requestor when the State asks for additional information will not impact the timeline for the State’s review. The clock will stop while the requestor gathers additional information and will restart if the requestor responds. Is this approach reasonable?
  - b. When the State requests additional information from other State/local enforcement entities, how should FMCSA account for the time when the RDR needs input from State or Federal

personnel outside the MCSAP Lead Agency?

- c. FMCSA acknowledges that meeting the timeline standard for every RDR may not be achievable. How should delays by either the State or the requestor in the RDR process be handled? What are some examples of extenuating circumstances that would delay the review of an RDR?

3. The proposal outlined in Section IV revises MCSAP Grant requirements and would impact funding distributed by FMCSA. How should States be held accountable for compliance?

4. If the State does not receive information from the requestor when additional information is requested, or the additional information the requestor provides is inadequate, how should the RDR be handled? Should the State reserve the right to proceed with the review and come to a decision? Should the previous round of review get another chance to reconsider their previous decision when new information is provided?

5. To what extent should FMCSA prescriptively define the criteria for a “valid reason” for the Reconsideration Review Process described in Section IV versus leaving this determination to the States? If FMCSA were to define the process, what specific information should a submitter be required to provide to meet that standard?

#### VI. Next Steps

FMCSA thanks industry stakeholders and enforcement personnel for engaging in the comment period to continually improve the RDR process and the DataQs program. These processes help ensure complete and accurate data is available to focus FMCSA resources where they will have the greatest impact on safety. A follow-up notice in the **Federal Register** will respond to any comments received and announce the revised MCSAP Grant requirements with ample time prior to implementation.

**Sue Lawless,**

*Assistant Administrator.*

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**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

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