

**ISSUES PERTAINING TO THE PROPOSED
NAFTA CROSS-BORDER TRUCKING
DEMONSTRATION PROJECT**

Federal Motor Carrier Safety Administration

Report Number: MH-2007-065

Date Issued: September 6, 2007



Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** Issues Pertaining to the Proposed
NAFTA Cross-Border Trucking Demonstration
Project
Federal Motor Carrier Safety Administration
Report Number MH-2007-065

Date: September 6, 2007

From: Rebecca Anne Batts *Rebecca Anne Batts*
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for Surface and Maritime Programs

Reply to
Attn. of: JA-40

To: Federal Motor Carrier Safety Administrator

Since 1998, we have audited Federal Motor Carrier Safety Administration (FMCSA) programs related to the Cross Border Trucking provisions under the North American Free Trade Agreement (NAFTA). During this period, the Department of Transportation (DOT) and FMCSA have continually improved the programs established to address congressional pre-conditions for allowing Mexico-domiciled motor carriers to operate beyond the commercial zones¹ along the United States-Mexico border. FMCSA actions include increasing inspection capacity at the southern border crossings, developing and implementing policies for taking enforcement actions against Mexican motor carriers, and establishing integrated and accessible data systems with state and Mexican officials.

On February 23, 2007, the Secretary of Transportation announced a 1-year demonstration project (also referred to as a pilot program) that would permit up to 100 Mexican motor carriers to begin operating beyond the commercial zones. According to the Department, the demonstration project will start when the first Mexican carrier is granted provisional operating authority by FMCSA to operate throughout the United States. The demonstration project will not include carriers that transport hazardous materials or passengers. In addition, for each time a demonstration project participant crosses the border into the United States, the Department has committed to checking the driver's license and the inspection

¹ Commercial zones at the southern border generally extend from 3 to 25 miles north of U.S. border municipalities (or 75 miles within the State of Arizona). Our audit also refers to the operation of Mexico-domiciled motor carriers outside of these zones as "long-haul" operations.

decal on the vehicle. In announcing the project, the Department referred to this process as checking “every truck every time.”

Section 6901 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007² requires the Office of Inspector General (OIG) to review FMCSA’s preparations for monitoring and enforcing safety rules among the demonstration project participants. This report presents the results of our initial audit on the demonstration project. According to Section 6901, prior to the start of the demonstration project, the Secretary is to take such actions as may be necessary to address the issues raised in our report and submit a report to Congress detailing such actions.

Our audit objectives, based on Section 6901 provisions, were to determine whether FMCSA has:

1. established sufficient monitoring and enforcement mechanisms to ensure that Mexican motor carriers that are granted provisional operating authority comply with U.S. Federal motor carrier laws and regulations and requirements associated with the demonstration project.
2. complied with each of the requirements contained in Section 350(a) of the Department of Transportation and Related Agencies Appropriation Act, 2002 (FY 2002 Act).³
3. established sufficient mechanisms to ensure that provisional operating authority is only granted to motor carriers domiciled in Mexico that can comply with U.S. Federal motor carrier laws and regulations and requirements associated with the demonstration project.

In assessing FMCSA’s mechanisms for granting provisional operating authority to Mexican motor carriers and for monitoring and enforcing compliance with U.S. laws and regulations, we based our conclusions on a review of documentation, interviews with Federal and state officials, direct observation at selected border crossings, and our prior audit work. However, until FMCSA initiates the demonstration project, we will not be able to fully test whether the mechanisms are, in fact, operating effectively.

We conducted this performance audit from June 2007 through August 2007 with the majority of fieldwork and interviews conducted in June and July. This audit was conducted in accordance with Generally Accepted Government Auditing Standards as prescribed by the Comptroller General of the United States. We

² Pub. L. No. 110-28 (2007).

³ Pub. L. No. 107-87 (2001).

performed such tests as considered necessary to detect fraud, waste, and abuse. Exhibit A further details our audit scope and methodology and prior audits.

RESULTS IN BRIEF

Our review found that FMCSA has implemented significant initiatives to address Section 350 requirements and cross-border safety concerns. The established mechanisms for monitoring and enforcing U.S. safety rules and regulations, such as conducting truck inspections at the border and throughout the United States, continue to function. Additionally, FMCSA has established mechanisms for monitoring Mexican carriers and drivers within the United States. It has also taken actions to address our August 2007 report⁴ recommendations regarding improving data consistency for Mexican driver convictions in the United States. The Agency is also now reviewing Mexican carriers on site in Mexico and performing these reviews in accordance with their regulations. Finally, although not required by Section 350, FMCSA has reviewed Mexican drug and alcohol test specimen collection facilities.

Despite FMCSA's significant accomplishments in implementing Section 350 requirements and addressing cross-border safety concerns, we identified three issues pertaining to the proposed demonstration project. Specifically:

- FMCSA has not developed and implemented complete, coordinated plans for checking trucks and drivers participating in the demonstration project as they cross the border. Without having site-specific plans in place and fully coordinated with U.S. Customs and Border Protection (CBP) and the states, the Department's commitment to check every demonstration project truck every time it crosses the border into the United States is at risk. These checks are important because they are intended to ensure that drivers entering the country are properly licensed and that trucks entering from Mexico display a decal denoting a recent safety inspection.
- FMCSA needs to take further action so that state enforcement officials understand how to implement recent demonstration project guidance for areas such as testing English language proficiency among drivers and ensure that training initiatives filter down to the roadside inspectors.
- FMCSA has implemented policies, rules, and regulations that differ slightly from the language in 3 of 34 specific Section 350(a) requirements. The most significant of these variations limits inspections of vehicles during on-site

⁴ OIG Report Number MH-2007-062, "Follow-Up Audit on the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions," August 6, 2007. OIG reports can be found on our website: www.oig.dot.gov.

safety audits to those trucks that are available at the time of the review. However, we have not identified any safety impacts arising from these differences if the controls cited by FMCSA, particularly checking every truck every time for an inspection decal, are put in place.

Further details on our review are provided in exhibit B.

Although we are making no formal recommendations, in our view, the Secretary's report to Congress prior to the initiation of the demonstration project should at a minimum include actions being taken to:

- Ensure that sufficient plans are in place to carry out the Department's commitment to check every demonstration project truck every time it crosses the border into the United States during the demonstration project.
- Ensure that state enforcement officials understand how to implement recent demonstration project guidance for areas such as testing English language proficiency among drivers and that training initiatives filter down to the roadside inspectors.
- Address our determination that FMCSA has implemented policies, rules, and regulations that differ slightly from the language in 3 of 34 specific Section 350(a) requirements.

Now that we have issued our report to the Secretary on the proposed demonstration project, if the Secretary elects to initiate the project following her report to Congress, we will be required under Section 6901 to monitor and review the demonstration project and submit an interim and final report to the Secretary and the Congress.

SUMMARY OF AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FMCSA with a draft of this report on August 27, 2007. On August 27, 2007, FMCSA provided us with its formal comments (see page 31). In its comments, FMCSA stated that it will submit a report to Congress detailing the actions the Agency is taking to address each of the three issues we raised in this report.

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ISSUES

FMCSA Has Not Developed Sufficient Plans for Checking Every Truck Every Time

FMCSA has not developed and implemented complete, coordinated plans for checking trucks and drivers participating in the demonstration project as they cross the border. Without having site-specific plans in place and fully coordinated with CBP and the states, the Department's commitment to check every demonstration project truck every time it crosses the border into the United States is at risk. These checks are important because they will review the driver's license to ensure that the vehicle is driven by a licensed driver and that the truck has an inspection decal issued by the Commercial Vehicle Safety Alliance (CVSA). These decals show that the vehicle received a safety inspection in the last 3 months. If the vehicle lacks the decal, a safety inspection is required before the truck enters the United States.

On June 26 and June 28, 2007, we directly observed inspections at three high-volume United States-Mexico border crossings: Otay Mesa, California, and the Ysleta and Bridge of the Americas ports of entry in El Paso, Texas⁵ (see figure 1 on next page). We observed that FMCSA's established monitoring and enforcement mechanisms were in place. However, neither FMCSA nor CBP had issued site-specific guidance on how they would ensure that every demonstration project truck would be checked every time. FMCSA officials on site in El Paso offered their plan to accomplish this task; this included positioning staff near compound exits to identify project trucks, which will have a DOT number ending in an "X." This screening will need to be done visually at the border crossing because an automated screening system used by CBP cannot currently identify project participants. However, at the time of our visits, there was no indication that CBP or the states would allow placement of staff to conduct such visual screening, as planned by FMCSA. In addition, no automated system was in place to identify demonstration project participants at the crossings.

⁵ From January 2006 through July 2006, DOT reported 448,552 truck crossings at El Paso, Texas, and 427,994 truck crossings at Otay Mesa, California.

Figure 1. Long Lines of Trucks Waiting To Enter the United States From Mexico



Trucks at the El Paso/Ysleta, Texas border crossing (June 2007, OIG)

After our visits, FMCSA and CBP agreed to develop a plan to check every truck every time, but, as of July 2007, no coordinated, site-specific plans to carry out such checks were in place. FMCSA stated that it would have plans outlined by August 22, 2007, but we have not received any outlines or completed plans. In our opinion, not having site-specific plans developed and in place prior to initiating the demonstration project will increase the risk that project participants will be able to avoid the required checks. Site-specific plans should ensure coordination among FMCSA, CBP, and state officials. Additionally, these plans should include quality control measures to ensure that FMCSA's system for checking each demonstration project truck is effective.

FMCSA Needs To Take Further Action so That State Enforcement Officials Understand How To Implement Recent Demonstration Project Guidance

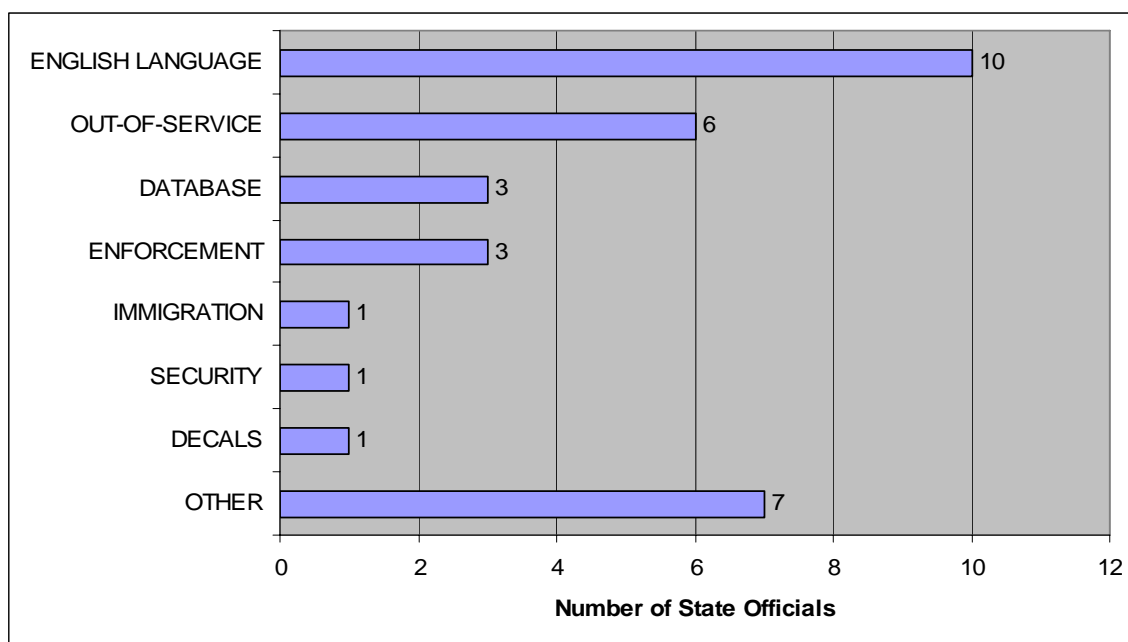
Since state enforcement officials conducted approximately 3.1 million vehicle and driver inspections in FY 2006 to enforce motor carrier safety rules, it is essential that these officials understand how to implement demonstration project requirements. Our interviews of key state enforcement officials between June 22 and August 1, 2007, identified a general readiness to enforce safety rules during the demonstration project. However, a number of concerns related to specific elements of the project were expressed by state officials. The officials also noted areas where state procedures related to the demonstration project were not in place. FMCSA issued guidance for some of these areas after our interviews,

Issues

but it still needs to address all the concerns and guidance issues raised in order to provide assurance that demonstration project requirements will be met.

Concerns Expressed by State Officials: We interviewed state officials responsible for coordinating motor carrier safety programs (state Motor Carrier Safety Assistance Program coordinators) in 49 states⁶ and the District of Columbia. Officials from 44 of the 50 states said that state inspectors were ready to enforce safety rules during the demonstration project. Of the remaining states, five officials stated that they were not ready to enforce these requirements and one did not respond. Twenty-six of the 50 state officials expressed 1 or more concerns as shown in figure 2 below.

Figure 2. State Motor Carrier Safety Assistance Program Coordinator Areas of Concern



Source: OIG analysis of states' responses to OIG interviews conducted from June 22 to August 1, 2007

As figure 2 shows, the most common concern, cited by 10 of the 50 states, was whether Mexican drivers would be able to sufficiently communicate with enforcement officials in English. For example, one official was concerned that a Mexican driver would not be able to understand directions when an inspector is underneath his vehicle and another was concerned about being able to discuss carrier ownership questions with the driver.

⁶ Hawaii was excluded from our interviews, and, for the purposes of this report, the District of Columbia is treated as a state.

State Procedures Lacking To Implement the Demonstration Project: Officials in some states reported that state procedures specifically related to the demonstration project were not in place. For example, Mexican carriers involved in the demonstration project are prohibited from transporting goods from one point in the United States to another location within the United States. Despite this, officials in seven states said they did not have procedures in place for enforcing restrictions on point-to-point deliveries within the United States.

FMCSA Guidance and Training: After we began our interviews with state enforcement officials, FMCSA issued guidance on English language proficiency, prepared educational materials on point-to-point restrictions, and planned further training related to a number of the states' concerns. However, FMCSA needs to ensure that states' concerns about English language proficiency and point-to-point transportation have been resolved and that training filters down to roadside officials who must enforce motor carrier safety regulations during the demonstration project. Specifically:

- With regard to English language proficiency, Federal rules⁷ require drivers to read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals in the English language, respond to official inquiries, and make entries on reports and records. To reinforce this regulation, FMCSA issued guidance on July 20, 2007, on English language proficiency, which states that the inspector must conduct the interview of the driver in English. The guidance also includes minimum inquiries for the interview. In addition, the guidance provides strategies for communication with non-native speakers of English, including examples of driver interview questions, and instructs the inspector to place a driver out of service for failing the test. FMCSA should monitor implementation of this guidance so that the states' concerns are addressed and the guidance is consistently implemented by state officials.
- With regard to point-to-point restrictions, Federal rules⁸ prohibit Mexico-domiciled motor carriers from providing point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo. The transportation of domestic freight between points in the United States is known as "cabotage." Therefore, a demonstration project carrier providing point-to-point transportation services in the United States is operating beyond the scope of its provisional operating authority and must be placed out of service. During June 2007, FMCSA, assisted by CVSA, authored a brochure detailing cabotage rules, regulations, and procedures that

⁷ 49 C.F.R. § 391.11(b)(2) (2006).

⁸ 49 C.F.R. § 365.501(b) (2006) and 67 FR 71795 (November 27, 2002).

enforcement officers can use to identify cabotage violations. As of August 16, 2007, this brochure had not been distributed to state officials.

- With regard to training, in August 2007, FMCSA plans to provide “train-the-trainer” instruction through the International Association of Chiefs of Police and CVSA for state commercial vehicle enforcement officers. According to CVSA, the training is designed to inform uniformed state patrol officers of the requirements for entry of commercial vehicles into the United States from Canada and Mexico. It also is designed to provide information on required driver and vehicle documentation as well as resources available from Federal and state commercial vehicle enforcement agencies. FMCSA should take appropriate follow-up action so that this training filters down to the roadside inspectors responsible for enforcing safety rules throughout the United States.

In summary, FMCSA has provided or prepared guidance and has begun working toward training state enforcement officials. However, it should develop a mechanism to obtain feedback on the success of current training and guidance activities. Without such a mechanism, FMCSA cannot ensure that critical information reaches the roadside inspectors who must enforce Federal safety rules during the demonstration project and that the states’ concerns expressed to us are resolved.

FMCSA Has Implemented Policies and Rules That Differ Slightly From the Language in the Section 350(a) Requirements

We verified that FMCSA implemented 31 of the 34 specific provisions we identified⁹ in Section 350(a) of the FY 2002 Act. These provisions established pre-conditions for processing applications from Mexican carriers to operate beyond the commercial zones. For the three remaining provisions, FMCSA implemented policies and interim final rules that differ slightly from the language in the Section 350(a) requirements. However, our present audit work does not identify any safety impacts arising from these differences if the controls cited by FMCSA, particularly checking every truck every time for an inspection decal, are put in place and operate effectively. The 34 requirements we identified are provided in appendix B. The three provisions where differences with Section 350(a) were identified are discussed below.

⁹ We identified 34 distinct requirements from among the 10 sub-sections of Section 350(a).

Vehicle Inspections During Pre-Authorization Safety Audits (PASA): While Section 350(a)(1)(B)(vi) requires a PASA inspection¹⁰ of Mexican vehicles without an inspection decal, the FMCSA interim final rule¹¹ limits such inspections to “available vehicles.” FMCSA officials provided three reasons for this difference:

- FMCSA officials stated that it is an essentially meaningless requirement to inspect all vehicles during the PASA because Section 350 does not require that the vehicles pass inspection and receive a decal at the time of the PASA in order for the carrier to obtain provisional operating authority. We confirmed that although vehicles were inspected during the PASA, Section 350 does not make the award of provisional operating authority contingent on all of the carriers’ vehicles passing inspection during the PASA. In addition, carriers are not restricted to using only those vehicles inspected during the PASA for the demonstration program.
- FMCSA officials stated that it is unrealistic to expect Mexican carriers to have every vehicle that they intend to use beyond the border zone available during the PASA and to have FMCSA inspectors spend prolonged periods at the facility. This FMCSA position was challenged by one commentator on the March 2002 interim final rule implementing the Section 350(a) requirement. The commentator questioned limiting inspections to available trucks simply to make the inspections more convenient for the FMCSA auditors or Mexican applicants. Because FMCSA has not yet finalized this rule and addressed the comments, it has not provided its rationale to the public for limiting inspections to available vehicles during the PASA.
- FMCSA officials emphasized that the key vehicle inspection occurs at the border. Our present audit work does not identify any safety impacts resulting from limiting inspections during the PASA to available trucks if the coordinated, site-specific plans to implement decal checks for every demonstration project truck every time it enters the United States are in place and working effectively and if states exercise adequate oversight of decals they receive from CVSA.¹² The state agencies are responsible for ensuring that decals are safeguarded and used properly.

¹⁰ The PASA is a FMCSA review conducted at the motor carrier’s principal place of business, in which the motor carrier must demonstrate that it has: (1) a controlled substance and alcohol testing program, (2) a system for complying with hours-of-service requirements, (3) proof of insurance, (4) records of periodic inspections of vehicles for use in the United States, and (5) qualified drivers for U.S. operations. After these are verified, FMCSA officials then perform vehicle inspections and verify whether the motor carrier can comply with Federal regulations.

¹¹ 67 FR 12702, 12715 (March 19, 2002).

¹² According to CVSA, in calendar year 2006, it provided states with approximately 1.8 million decals and Mexican authorities with 200 decals. CVSA told us that it distributes tamper-resistant serialized decals to state agencies for certified inspectors to place on vehicles that have passed inspection.

Border License Checks of Drivers Working for Mexican Carriers: FMCSA policy implementing the Section 350(a)(3) requirement to electronically verify the status and validity of each Mexican commercial vehicle driver's license crossing the border specifies license checks for only those drivers domiciled in Mexico. Strictly interpreted, this policy would not include Mexican commercial vehicle drivers who are domiciled outside of Mexico. However, since the automated system FMCSA has in place for inspectors to check commercial driver licenses can access data for drivers domiciled in either the United States or Mexico, our present audit work does not identify any impact on the operation of the safety program resulting from this difference.

Safety Rules for Longer Combination Vehicles: The FMCSA rule implementing Section 350(a)(1)(B)(v) has not been updated to include all safety rules that currently apply to Mexican carriers. In 2002, FMCSA defined the safety rules relevant to Mexican motor carriers as 49 C.F.R. Parts 382 through 399. In 2004, FMCSA promulgated Part 380, which establishes minimum requirements for operators of longer combination vehicles and their instructors.¹³ While this rule is not specifically mentioned in FMCSA guidance for conducting the PASA, we confirmed that the application process emphasizes the applicant must comply with all safety rules. This includes a requirement for a certification by Mexican carriers that they understand and will comply with all current Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and Federal Motor Vehicle Safety Standards. Therefore, our present audit work does not identify any impact on the operation of the safety program resulting from this difference.

DATA NEEDED TO EVALUATE THE DEMONSTRATION PROJECT

This initial audit does not examine whether FMCSA has established sufficient mechanisms to determine if the demonstration project will adversely affect motor carrier safety or the issue of whether Mexican participants in the demonstration project are a representative sample of the Mexican motor carriers who would be expected to operate in the United States. These are issues we are required to address in future audits of the demonstration project, if it is initiated. We sent questions to FMCSA on May 4, 2007, which we thought might be relevant as the Department develops performance metrics and success criteria for the demonstration program. These questions are provided in exhibit C.

Although we are making no formal recommendations, in our view, the Secretary's report to Congress prior to the initiation of the demonstration project should at a minimum include actions being taken to:

¹³ 49 C.F.R. § 380 (2006).

- Ensure that sufficient plans are in place to carry out the Department's commitment to check every demonstration project truck every time it crosses the border into the United States during the demonstration project.
- Ensure that state enforcement officials understand how to implement recent demonstration project guidance related to areas such as testing English language proficiency among drivers and that training initiatives filter down to the roadside inspectors.
- Address our determination that FMCSA has implemented policies, rules, and regulations that differ slightly from the language in 3 of 34 specific Section 350(a) requirements.

EXHIBIT A. OBJECTIVES, SCOPE, AND METHODOLOGY AND PRIOR OIG AUDITS

OBJECTIVES

The objectives of this audit were to determine whether FMCSA has: (1) established sufficient monitoring and enforcement mechanisms to ensure that Mexican motor carriers that are granted provisional operating authority comply with U.S. Federal motor carrier laws and regulations as well as requirements associated with the demonstration project, (2) complied with each of the Section 350(a) requirements contained in the FY 2002 Act, and (3) established sufficient mechanisms to ensure that provisional operating authority is only granted to motor carriers domiciled in Mexico that can comply with United States Federal motor carrier laws and regulations as well as requirements associated with the demonstration project.

SCOPE AND METHODOLOGY

This performance audit was conducted from June 2007 through August 2007¹⁴ in accordance with Generally Accepted Government Auditing Standards as prescribed by the Comptroller General of the United States. We performed such tests as we considered necessary to detect fraud, waste, and abuse.

Our work included a review of documentation, interviews with Federal, state, and Commercial Vehicle Safety Alliance personnel, and direct observations of vehicle inspections and safety reviews in the United States and Mexico. Further details on the scope and methodology are discussed below.

Since Mexican carrier long-haul authority has not yet been granted, we could not fully test and analyze certain enforcement mechanisms focused on Mexican long-haul carriers that FMCSA has put in place to meet requirements. For example, in order to fully test how effectively roadside inspections conducted by state officials ensure that Mexican motor carrier vehicles meet U.S. Federal motor carrier laws and regulations after entering the United States, we would need actual data on the number of these inspections, the number and type of violations detected, and whether any corrective action was required. Since demonstration project trucks

¹⁴ We conducted additional research between March 2007 and May 2007 in response to a March 7, 2007, request from the House Committee on Transportation and Infrastructure that addressed issues similar to those in Section 6901 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.

have not yet been cleared to enter the United States, data on state roadside inspections involving these trucks does not exist.

Our audit of monitoring and enforcement mechanisms focused on mechanisms at the United States-Mexico border and on those in place throughout the United States. At the United States-Mexico border, we directly observed FMCSA and state operations at three major truck border crossings: Otay Mesa, California, and the Ysleta and Bridge of the Americas (BOTA) crossings in El Paso, Texas. At these locations, we observed the overall crossing operation and vehicle and driver inspections; observed inspection-related equipment; reviewed inspection reports and other available documentation; and interviewed officials from FMCSA, CBP, and the state to determine: (1) the current roles and procedures they used to permit the entry of Mexican motor carriers into the United States and their subsequent operations beyond the entry point, (2) the working relationships between border staff of the different agencies at each crossing, (3) inspection procedures and certifications, and (4) the degree to which specific demonstration project requirements have been put in place. In El Paso, we were accompanied by a safety expert with extensive law enforcement experience to provide technical assistance with our work.

To determine the status of on-site protocols covering the screening of project trucks at each United States-Mexico border location, FMCSA use of CBP automated systems, and other issues related to coordination between FMCSA and CBP, we met with a CBP official in Washington, D.C.

To understand the monitoring and enforcement mechanisms within the United States, we observed operations and inspections at a Virginia truck inspection station. Further, we interviewed lead motor carrier safety officials from 49 states (Hawaii was excluded from the interviews) and the District of Columbia to ascertain if they believed they were prepared to enforce demonstration project requirements and if they had any concerns with mechanisms for monitoring Mexican motor carriers with provisional operating authority and enforcement of safety rules. We also confirmed that systems and procedures have been established to monitor Mexican carrier operating authority violations and driver convictions. For Mexican carriers that are considered high risk, or required to go through an immediate review because they have committed certain violations, FMCSA plans to use a compliance review to determine whether provisional operating authority should continue. To gain a better understanding of these reviews, we observed the practices employed for a U.S. compliance review.

We obtained and reviewed documentation to determine whether FMCSA complied with each of the Section 350(a) requirements included in the FY 2002 Act (Public Law 107-87). We identified 34 distinct Section 350(a) requirements.

Exhibit A. Objectives, Scope, and Methodology and Prior OIG Audits

To determine whether FMCSA has established sufficient mechanisms to ensure that provisional operating authority is only granted to Mexico-domiciled motor carriers that can comply with Federal motor carrier safety laws and regulations and the project requirements, we reviewed the results from the 32 PASAs conducted by FMCSA between February 22 and May 8, 2007. Specifically, we compared the applications and safety audit reports to FMCSA rules and requirements established for the application process, including proper completion of the application, FMCSA review of the application, and the safety audit. We reviewed the applications these 32 carriers submitted for the project and the evidence of management oversight of the application review process. We also verified that FMCSA's report of the safety audit had supporting documentation. We followed up with FMCSA on the 6 carriers, of the 32, that did not pass the safety audit to determine if the reasons for the failure were in accordance with FMCSA policy. As of August 13, 2007, FMCSA had completed a total of 50 PASAs.

In July 2007, we observed two FMCSA pre-authorization safety audits performed in Ciudad Juarez and Tijuana, Mexico. We were accompanied by an independent expert with experience in United States and Mexico commercial trucking and safety enforcement. Additionally, we met with representatives from CVSA to obtain an understanding of their controls over CVSA truck inspection decals. We also assessed FMCSA controlled substance and alcohol testing mechanisms. We attended a FMCSA safety auditor training class covering how to assess Mexican motor carrier drug testing programs during the pre-authorization safety audit and observed a test facility in Nuevo Laredo, Mexico, and a mobile test facility operated by Mexico.

After completing safety audits, and before provisional operating authority is granted, FMCSA is required to post for public comment the names of the accepted carriers in the FMCSA Register. We compared the carrier names in the applications and the completed safety audits for the 26 carriers who passed the PASA to the Mexican motor carrier names posted in FMCSA Register notices to ensure that this was done. We attempted to review public comments, but, according to FMCSA, none were provided for the carriers they posted. Finally, to determine whether FMCSA was performing a final insurance check of the carrier before issuing provisional operating authority in accordance with FMCSA policy, we assessed FMCSA's process and use of the Licensing and Insurance System (L&I). However, we did not test the accuracy of the data insurance companies supplied to FMCSA through the L&I system.

Results From Prior OIG Audits Used in This Audit

We used the results from prior OIG audits, to the extent necessary, to gain an understanding of FMCSA mechanisms established in response to the FY 2002 Act

Exhibit A. Objectives, Scope, and Methodology and Prior OIG Audits

and to determine the status of any issues that could impact the announced project. Previous OIG reports issued in June 2002, May 2003, January 2005, and August 2007 addressed eight criteria contained in Section 350(c) of the FY 2002 Act and issues found pertaining to Section 350(a) and (b) requirements and general border operation or truck safety. The eight criteria that we reviewed and that FMCSA must have in place are:

- filling positions at the southern border with trained inspectors;
- training inspectors to conduct on-site inspections;
- filling positions by not transferring inspectors;
- having an hours-of-service policy;
- having sufficiently accurate, accessible, and integrated information infrastructure and adequate telecommunications links;
- ensuring there is adequate capacity to conduct meaningful inspections at the southern border;
- having sufficient databases to allow safety monitoring of Mexican carriers and drivers; and
- having measures to ensure effective enforcement and monitoring of Mexican carrier licensing.

Our most recent report in August 2007 reported that despite FMCSA's progress, additional improvements were needed in two of the Section 350(c) criteria. First, the system used to monitor Mexican commercial drivers' license convictions, the 52nd State System, still contained data inconsistencies. Second, at one high-volume Mexican bus crossing, physical space and capacity issues prevented inspections during high-volume holiday periods. Additionally, FMCSA had not issued additional guidance that would make it mandatory for inspectors to check the vehicle identification number to ensure that Mexican vehicles had complied with manufacturing safety standards and to record the vehicle identification number in inspection records. Finally, it was not clear whether the controls in place ensured that valid specimens for drug and alcohol testing were being collected before being sent to a certified laboratory.

In its comments to the August 2007 report, FMCSA concurred with the report recommendations and proposed corrective actions, which we accepted. Specifically, FMCSA stated that it would ensure that all southern border states would complete action plans to improve data consistency. A monthly data report would be implemented to identify data inconsistencies and to notify the states of these inconsistencies. FMCSA also planned to modify its commercial bus inspection plan to ensure adequate coverage at the Lincoln-Juarez crossing in Laredo, Texas, during periods of peak bus traffic. In addition, it planned to conduct or contract for a review of the effectiveness of its commercial bus inspection plan.

Exhibit A. Objectives, Scope, and Methodology and Prior OIG Audits

FMCSA agreed to require its inspectors to look at the vehicle identification number for all long-haul, Mexico-domiciled carriers to check vehicle compliance with U.S. manufacturing standards and to record this information. FMCSA also stated it will revise its system software so that it will automatically remind its inspectors to enter the vehicle identification number. Finally, FMCSA agreed to establish an action plan, in coordination with DOT's Office of Drug and Alcohol Policy and Compliance, to conduct audits of Mexico's drug collection facilities and laboratories and to work with Mexico to meet U.S. requirements.

Other OIG reports issued in this area include:

- OIG Report Number MH-2005-032, "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions," January 3, 2005.
- OIG Report Number MH-2003-041, "Follow-Up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border," May 16, 2003.
- OIG Report Number MH-2002-094, "Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border," June 25, 2002.
- OIG Report Number MH-2001-096, "Motor Carrier Safety at the U.S.-Mexico Border," September 21, 2001.
- OIG Report Number MH-2001-059, "Status of Implementing the North American Free Trade Agreement's Cross-Border Trucking Provisions," May 8, 2001.
- OIG Report Number TR-2000-013, "Mexico-Domiciled Motor Carriers," November 4, 1999.
- OIG Report Number TR-1999-034, "Motor Carrier Safety Program for Commercial Trucks at U.S. Borders," December 28, 1998.

EXHIBIT B. FURTHER DETAILS ON OUR REVIEW

This exhibit provides additional background on the Section 350 requirements and the OIG role. It also provides further details on our review of FMCSA's monitoring and enforcement mechanisms for Mexican carriers and the demonstration project, FMCSA compliance with Section 350(a) of the FY 2002 Act, and FMCSA's mechanisms for granting operating authority to project participants.

Background on Section 350 Requirements and the OIG Role

With the signing of NAFTA in December 1992, the United States and Mexico consented to cross-border trucking throughout both countries by January 1, 2000. However, in December 1995, the U.S. Secretary of Transportation indefinitely delayed implementation of NAFTA cross-border provisions, citing safety reasons.

Between FY 2002 and FY 2007, Section 350 of the FY 2002 Act and subsequent appropriation legislation prohibited FMCSA from using Federal funds to review or process Mexico-domiciled motor carrier applications to operate beyond the U.S. commercial zones until certain pre-conditions and safety requirements were met. Section 350 provisions, including the requirement for an annual review by our office and the Secretary's certification of border operations, are summarized below.

- **Section 350 Pre-Conditions for Reviewing or Processing Mexican Long-Haul Applications:** FMCSA must meet a number of pre-conditions contained in Section 350(a) before it can review or process Mexican motor carrier applications to operate as a long-haul carrier beyond the municipal and commercial zones at the southern border. This includes requiring on-site safety reviews of motor carriers in Mexico in some instances.
- **Section 350 Pre-Condition for Vehicles To Haul Hazardous Materials:** Section 350(b) restricts vehicles owned or leased by Mexican motor carriers from carrying hazardous materials beyond commercial zones until an agreement is reached between the United States and Mexico. This agreement must hold hazardous material drivers from both countries to substantially the same requirements.
- **Section 350 OIG Review and Secretary Certification of Border Operations:** Section 350(c) prohibits Mexican motor carriers from operating beyond the commercial zone under conditional or permanent authority granted by FMCSA until two events occur. First, the OIG must conduct a review

within the first 180 days of the law's enactment to verify whether or not eight criteria are met. These criteria relate to the hiring and training of inspectors, establishment of inspection facilities, and development of safety processes and procedures for Mexican long-haul motor carriers. Second, the Secretary of Transportation must certify, in a manner addressing the OIG's findings, that opening of the border does not pose an unacceptable safety risk to the American public.

The OIG issued the initial report under the Section 350(c) criteria in June 2002. In November 2002, the Secretary of Transportation certified that opening the border does not pose an unacceptable risk to the American public.

Although Section 350(c) does not require the Secretary of Transportation to re-certify the safety of opening the border after the initial certification, it does direct the OIG to perform annual reviews using the eight Section 350(c) criteria. The OIG issued follow-up reports in May 2003, January 2005, and August 2007 that addressed the eight criteria and other border operations issues covered under the FY 2002 Act.

- Our January 2005 report concluded that FMCSA had sufficient staff, facilities, equipment, and procedures in place to substantially meet the eight Section 350(c) criteria. However, the report made nine recommendations to FMCSA, four of which addressed criteria relevant to the eight criteria that the OIG is required to review.
- Our August 2007 report assessed the actions that FMCSA took in response to our January 2005 recommendations. We found that despite the progress FMCSA had made, further improvements were needed in four areas. These included improving the consistency of data used to monitor Mexican commercial driver convictions in the United States, ensuring adequate Mexican bus inspection coverage during busy periods, implementing a FMCSA policy to check and record vehicle identification numbers during an inspection, and coordinating with DOT offices to ensure that drug and alcohol testing issues are addressed. In response to our report, FMCSA provided an action plan in which it committed to make improvements in each area.

Further information pertaining to our prior reports can be found in exhibit A.

FMCSA's Monitoring and Enforcement Mechanisms for Mexican Carriers and the Demonstration Project (Objective 1)

As described by the Department in notices published in the Federal Register on May 1 and June 8, 2007, the demonstration project, if initiated, will include monitoring and enforcement mechanisms that FMCSA has already established,

Exhibit B. Further Details on Our Review

such as inspections at the border. We have addressed these mechanisms in our prior reports. However, the demonstration project plans have also highlighted a number of specific provisions for demonstration project participants, which include the following:

- Each driver and vehicle entering the United States will be checked.
- Each driver will be required to be proficient in the English language.
- A carrier will not be permitted to transport hazardous materials.
- A vehicle will not be permitted to transport passengers.
- A carrier may not provide point-to-point transportation services within the United States.

Given our prior audit work regarding the monitoring and enforcement mechanisms FMCSA already had in place before the announcement of the demonstration project, we focused our current work on determining whether FMCSA had implemented the specific provisions of the demonstration project. As discussed in the “Issues” section of this report (see page 1), we found that FMCSA has not developed sufficient plans for checking every demonstration project truck every time and has not done enough to ensure that state enforcement officials understand demonstration project guidance.

Figure 3. Inspection Facility in Otay Mesa, California



Source: OIG (June 2007)

Our work included direct observations and interviews with state officials (see figure 3) at judgmentally selected border crossings where we confirmed that existing mechanisms, such as truck inspections at the border, remain in place.

Exhibit B. Further Details on Our Review

During our interviews with state officials throughout the country, we asked whether:

- truck inspections will be conducted differently for Mexican-domiciled motor carriers participating in the demonstration project than for U.S. carriers;
- there are procedures in place for inspectors to check for violations pertaining specifically to the demonstration project, including driver English proficiency, transport of passengers or hazardous materials, and point-to-point (cabotage) violations;
- there are any concerns regarding the demonstration project; and
- state truck safety inspectors are ready to enforce FMCSA regulations during the demonstration project.

Our discussion in the “Issues” section of this report (see page 3) noted that officials from five states stated that they were not ready to enforce FMCSA safety rules for the demonstration project. These five states were Montana, Nebraska, Nevada, Rhode Island, and Utah. Maryland officials did not respond to this question. The seven states reporting that they did not have procedures in place for enforcing restrictions on point-to-point deliveries within the United States included the District of Columbia, Florida, Georgia, Louisiana, New Mexico, Utah, and Washington.

FMCSA Compliance With Requirements in Section 350(a) (Objective 2)

The FY 2002 Act and subsequent appropriation legislation prohibited FMCSA from using Federal funds to review or process Mexico-domiciled motor carrier applications to operate beyond the United States commercial zones until certain pre-conditions in Section 350(a) of the act were met. We identified 34 requirements in Section 350(a) that FMCSA must follow. See appendix B for a list of the 34 requirements identified.

Generally, Section 350(a) requires that FMCSA establish requirements for:

- conducting pre-authorization safety audits of all Mexican motor carriers who apply for long-haul authority;
- performing full safety compliance reviews of those carriers within 18 months of granting conditional operating authority; and
- monitoring and enforcing activities such as inspecting Mexican vehicles, verifying operators' licenses, and ensuring adequate capacity at border crossings.

We examined FMCSA's documentation and conducted additional research to determine if FMCSA had implemented all 34 requirements. As a result, we verified that FMCSA implemented 31 of these requirements. While FMCSA did address the three remaining requirements, which included definitions of safety regulations, vehicle inspections during on-site safety audits, and border license checks of drivers working for Mexican carriers, it did so in a manner that was slightly different from what Section 350(a) required. In the "Issues" section of the report (see pages 5 through 7), we discuss these differences.

In determining that 31 of the 34 requirements were implemented, we based our determination for 1 provision, Section 350(a)(9), on information obtained from CBP, an agency not under our audit jurisdiction, and our prior audit coverage. Section 350(a)(9) calls for FMCSA to:

require that commercial vehicles operated by a Mexican motor carrier [defined in Section 350 as carriers operating beyond the commercial zones] only enter the United States at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and place vehicles out-of-service.

CBP has the authority to enforce the language in this provision regarding entry to the United States because it controls ports-of-entry for Mexican commercial vehicles. FMCSA provided us with a letter from CBP dated July 18, 2007, stating that "Mexican commercial vehicles with authority to operate beyond the commercial zones will be permitted to enter the United States only at commercial border crossings and only when a certified motor carrier safety inspector is on duty."

Our prior work has shown that buses, which are also commercial vehicles, are currently inspected at commercial truck crossings. Bus capacity issues identified in our previous work occurred at separate border crossings designated for buses.

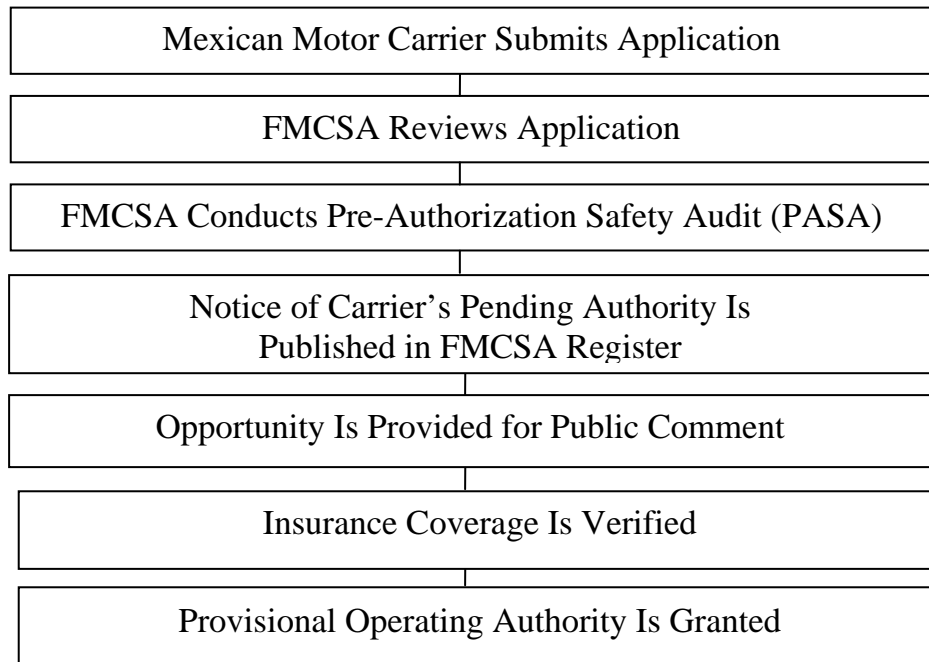
Exhibit B. Further Details on Our Review

Given the July 2007 CBP commitment discussed above to limit Mexican commercial vehicles to manned commercial border crossings, we accepted the CBP action as complying with the requirement since it would restrict buses to the manned crossings.

FMCSA's Mechanisms for Granting Provisional Operating Authority to Mexican Carriers (Objective 3)

FMCSA's mechanisms for granting provisional authority to operate beyond the commercial zones at the United States-Mexico border are contained in its June 2007 Federal register notice regarding the demonstration project and in earlier published rules and guidance. The primary mechanisms FMCSA established are the carrier application review process and the PASA. This includes a requirement for an on-site review at the applicant's place of business in Mexico. Additionally, FMCSA relies on public comments regarding the Mexican carrier and a verification of carrier insurance coverage before provisional operating authority is granted. The following chart summarizes the process established by FMCSA.

Figure 4. Process for Granting OP-1 (Long-Haul) Provisional Operating Authority



Between February 22, 2007, and August 13, 2007, FMCSA conducted 50 pre-authorization safety audits of Mexican carriers seeking provisional authority in the demonstration project. Our review covered 32 of the completed safety audit reports available at the start of our audit and the related application materials. Additionally, in July 2007, we observed two other pre-authorization safety audits

Exhibit B. Further Details on Our Review

conducted in Mexico. Based on our review, FMCSA has properly implemented the mechanisms it has established to grant provisional operating authority.

Our review of 32 applications for provisional operating authority by Mexican motor carriers showed that each of the 32 applications met the basic guidelines established by FMCSA. The applications were complete, prepared in English, and included the necessary information on the number of trucks and drivers the company intended to operate in the United States during the project.

The 32 pre-authorization safety audit reports we reviewed were supported with documentation and complied with the established procedures. Each safety audit addressed the five critical elements required by FMCSA for a carrier to pass the audit. These included: (1) a controlled substance and alcohol testing program, (2) a system for complying with hours-of-service requirements, (3) proof of insurance, (4) records of periodic inspections of vehicles for use in the United States, and (5) qualified drivers for U.S. operations. As a result of the FMCSA safety audit, FMCSA failed six carriers for not implementing one of the five critical elements, as follows (see table):

Table. Carriers That Failed the Pre-Authorization Safety Audit

Carrier	Reason(s) Mexican Carrier Did Not Pass Safety Audit
1	Drug and Alcohol Testing Program Not In Place
2	Hours of Service Program Not In Place
3	Drug and Alcohol Testing, Vehicle Inspection Programs Not In Place
4	Drug and Alcohol Testing, Vehicle Inspection Programs Not In Place
5	Vehicle Inspection Program Not In Place
6	Hours of Service, Insurance, and Vehicle Inspections Programs Not In Place
Source: OIG analysis of FMCSA data	

The 26 carriers that passed FMCSA's PASA identified 140 commercial motor-vehicles intended for U.S. operations. Of these, 78 vehicles (56 percent) were inspected by FMCSA during the PASA. Vehicles that passed the inspection received or retained a CVSA decal required to operate in the United States.

Our July 2007 observations of two FMCSA pre-authorization safety audits in Mexico revealed that the pre-authorization safety audits were done in accordance with FMCSA procedures. Only one of the two safety audits we observed included inspections conducted under the North American Standard Level V (Vehicle Only) Inspection procedure since the other carrier we visited failed the verification phase and, consequently, FMCSA was not required to inspect its vehicles.

Exhibit B. Further Details on Our Review

Figure 5. Inspection of Mexican Applicant's Vehicle During the PASA



PASA at Carrier's Facility in Ciudad Juarez, Mexico (July 2007, OIG)

During the safety audit, we observed FMCSA efforts to verify data provided by the Mexican carriers using other available information. For example, FMCSA officials conducting the PASA:

- used insurance company loss reports, vehicle repair records, driver qualification files and information from FMCSA's database to identify accidents involving the motor carrier.
- compared driver time sheets to U.S. vehicle inspections in order to uncover hours-of-service violations.
- contacted the third-party consortium administering the drug and alcohol testing program and reviewed the contract and rate of testing for compliance with U.S. requirements.¹⁵
- verified the licenses of the Mexican drivers identified for U.S. operations through a check of the FMCSA database that included status information on Mexican commercial driver's license holders.

While the FMCSA officials conducting the PASA took steps to verify the on-site data, we noted that certain information was not available to them. Specifically, information pertaining to vehicle inspections, accident reports, and driver violations maintained by Mexican authorities was not available to FMCSA unless such information was included in company records. A FMCSA official stated that either such information was not available from the Mexican authorities or the databases containing such information were still under development.

While insurance information was verified during the safety audit, FMCSA guidance did not require, and the FMCSA officials conducting the PASA did not

¹⁵ 49 C.F.R. § 40 (2006).

verify, that the Mexican carrier had insurance coverage for long-haul operations at the time of the safety audit. Instead, carriers were advised to obtain appropriate insurance coverage as a prerequisite for obtaining provisional authority. After the safety audit and prior to issuing provisional authority, FMCSA verifies the carrier's insurance coverage through its L&I database. While our testing of the L&I database was limited, our observation of the system as it applies to U.S. carriers and an assessment of the most recent Certification and Accreditation for the L&I System done in conjunction with this audit, found no significant risks associated with the system.

We also confirmed that mechanisms established to provide for public comments following a PASA through use of the FMCSA Register were in place. However, since no public protests had been filed against a Mexican carrier posted in the Register, and no long-haul authority has been granted under the demonstration project, we could not fully test FMCSA's response to a protest and final procedures for issuing the authority.

Although not required, FMCSA has also reviewed Mexican drug and alcohol test specimen collection facilities. We attended training for the FMCSA staff conducting such reviews and observed a review of a Mexican facility in Nuevo Laredo. Based on our observation at this single facility, the processes at this facility were generally consistent with U.S. requirements. We have not received final reports on the review conducted by FMCSA and DOT's Office of Drug and Alcohol Policy.

EXHIBIT C. OIG QUESTIONS FOR THE EVALUATION PANEL**Memorandum**

**U.S. Department of
Transportation**
Office of the Secretary
of Transportation
Office of Inspector General

Subject: **INFORMATION:** Questions for Evaluation Panel
on Cross-Border Demonstration Program

Date: May 4, 2007

From: Calvin L. Scovel III *C. L. Scovel III*
Inspector General

Reply to
Attn. of: JA-40

To: Jeff Shane
Under Secretary for Policy

The Office of Inspector General has been requested by the House Transportation and Infrastructure Committee to review the one-year demonstration program to grant authority to up to 100 Mexican-domiciled motor carriers to operate beyond the commercial zones at the southern border. Specifically, the committee asks us to determine whether DOT has established sufficient controls to ensure that the demonstration program participants are in full compliance with all U.S. motor carrier safety laws and regulations.

Considering the scope of this request and our responsibility to be independent and objective in our work, we informed the Secretary that we viewed our role as providing ongoing feedback to the Department on our methodologies and potential findings rather than participating as a formal or ex officio member in any advisory groups established by the Secretary.

Consistent with this role, the attachment provides a list of questions we have developed based on our prior audit work and preliminary research on the current request which may be relevant to developing performance metrics and success criteria for the demonstration program. These also may be used by the Evaluation Panel responsible for evaluating the safety impacts of allowing Mexican-domiciled motor carriers to operate on U.S. roads beyond the commercial zones.

The list provides questions addressing the following areas:

- *Safety Data and the Timeframe.* These questions address the sufficiency of the safety data and the length of time planned for the demonstration program given issues we have encountered previously.
- *Participant Screening Questions.* These questions address the stated goal of checking “every truck, every time.”
- *Assessing the Overall Results of the Demonstration Program.* These questions address factors influencing the overall assessment of the demonstration program.

We would be glad to discuss these questions with your staff, Federal Motor Carrier Safety Administration (FMCSA) personnel, or the Evaluation Panel. We will also be sharing this list with the Congressional Committees of jurisdiction as we keep them informed on the progress of our work.

If you have any questions or if we can be of further assistance, please contact me at x61959 or Kurt Hyde, Assistant Inspector General for Surface and Maritime Programs, at x65630.

Attachment

cc: John Hill, FMCSA Administrator
Evaluation Panel Members (Messrs. Downey, Kolbe, and Mead)

Questions on Cross-Border Demonstration Program
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Safety Data and Timeframe Questions:

1. What information exists on safety records for long-haul Mexican carriers already operating in the U.S., which could serve as a baseline for assessing the safety records of participants in the demonstration program¹? We are aware of the following Mexican domiciled carriers that could be part of this baseline calculation:
 - 1,300 long-haul Mexican carriers discussed in our January 2005 report² that are 55 percent U.S. owned and previously received approval to operate outside the commercial zones.
 - Mexican carriers identified as being inspected or involved in crashes beyond the border states. Our January 2005 report identified 144 such carriers, based on FMCSA records, in the period from 2002-2004, and our current work has identified similar numbers in 2005, although reliable estimates are difficult to make in this area.
 - At least 5,000 Mexican carriers operating in the commercial zone in FY 2005, according to our latest analysis of MCMIS³ inspection records.
 - Carriers granted “extended authority” to operate beyond the commercial zone prior to 2002. We do not know how many of these exist, but have been told it would include carriers operating to San Antonio.

2. What measures will be taken to ensure that all crashes involving demonstration program participants are reported? Recent University of Michigan studies have shown that, for 2003, California and New Mexico reported about 53 percent and 9 percent respectively of reportable commercial crashes to FMCSA. Could such problems lead to under-reporting of crashes for Mexican carriers? Conversely, given the increased attention on the Mexican carriers could the crash rates for Mexican carriers be artificially inflated in comparison to non-Mexican carriers? How will these factors be considered in the evaluation?

¹ We have used the terms demonstration program and pilot program interchangeably in these questions although this is not meant to imply that we have determined if the program must meet the pilot program criteria set forth in the law.

² OIG Report Number MH-2005-032, *Follow-up Audit of the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions*, January 3, 2005. OIG reports are available on our web site: www.oig.dot.gov.

³ Motor Carrier Management Information System.

3. Since state crash reporting to FMCSA does not indicate who was at fault, will further work be done to identify fault? Will the Evaluation Panel rely on police reports for determining the cause of any fatal crashes, or will they call on others to review any fatal crashes involving demonstration program participants? Will FMCSA require that all crashes involving demonstration program participants be reported even if they do not meet Federal reporting criteria (fatality, tow away, or injury)?
4. Will the crash rate calculation use power units or vehicle miles traveled, or both, as the normalizing factor (common denominator), and what controls will ensure the validity of this data?
5. Is one year a sufficient period of time to collect adequate safety data from demonstration program participants for accurate and reliable data analyses of any safety issues? Our past and ongoing work has identified a number of issues related to this question:
 - a. Some crashes may be reported after the demonstration period is ended. Our work indicates that, on average, states took 64 days to report crashes to FMCSA in CY 2005 and 92 days in FY 2004. What steps are being taken to ensure that crash data used to evaluate the demonstration program are as complete as possible and to avoid receiving information on crashes after the decisions are made on the pilot program?
 - b. One year is a shorter period than the one used by the system for assessing high-risk U.S carriers. Given that the system used by FMCSA to evaluate the safety risk posed by all motor carriers (SafeStat⁴) uses 30 months of safety data (weighted towards most recent) to assess the safety risk of U.S. motor carriers, and their selection for compliance reviews, what steps are being taken to ensure that using safety data covering only one year (or less, given reporting delays) will provide sufficient information to assess the safety risk posed by long-haul Mexican carriers participating in the demonstration program?
 - c. Compliance reviews that are used by FMCSA to evaluate whether a motor carrier is meeting safety regulations rely on data about crashes over an 18 month period, not 12 months. If compliance reviews are used to assess safety during the demonstration program, will these

⁴ Motor Carrier Safety Status Measurement System.

compliance reviews be considered valid if 18 months of crash data is not available?

6. Our work has also identified problems in the past associated with incomplete reporting of traffic violations cited in conjunction with inspections. For example, a police officer may have stopped a truck for speeding and subsequently conducted an inspection, but the inspection form does not reflect the speeding violation, whether or not a citation was issued. Are there any plans to mitigate this issue as it relates to demonstration program participants?
7. Our prior audit work from 2004⁵ showed that about 13.4 percent of crashes and 7.5 percent of inspections are reported inaccurately into the database. What steps will be taken to mitigate this issue in the assessment of long-haul Mexican carriers and are there reasons to believe that the error rate will be greater or lesser with demonstration program participants? Will Mexican carriers be allowed to correct inaccurate data using the systems implemented by FMCSA following our 2004 report? And, if so, will the calculations of safety rates be held up pending resolution of any contested data?
8. Is the available data on enforcement of operating authority sufficient to determine the exact nature of reported operating authority violations (for example, can cabotage violations be identified)?
9. The FMCSA Administrator testified in March 2007 that trucks involved in the demonstration program would be tracked by Vehicle Identification Number (VIN) to ensure that only trucks that have passed inspection are allowed to operate in the U.S. Our review of MCMIS data for 2005 indicates that only about 37 percent of the records for Mexican trucks inspected in that year included valid information in the VIN data field. What actions will FMCSA take to ensure that the VIN data are recorded by both state and Federal inspectors during the demonstration program? Will the need for such training delay the demonstration program?
10. Will FMCSA only track and inspect specific power units (identified by VIN) and allow any trailer to be towed by pilot program participants; or will they also track specific trailers (identified by VIN) used by pilot program participants? If so, have any necessary training and modifications to existing databases been accomplished to carry out this tracking?

⁵ OIG Report Number MH-2004-034, Improvements Needed in the Motor Carrier Safety Status Measurement System, February 13, 2004.

Participant Screening Questions

11. According to FMCSA, each participant's driver license will be checked at the border every time. What will be considered a successful rate for passing the required licensing checks? For example, our current work shows that 16 percent of the license checks of Mexican domiciled drivers in a one month test period showed that the license was not found in the Mexican CDL system. What percent would be an acceptable "driver not found" rate for pilot participants? How will the failure rate, if any, during license checks of Mexican drivers be compared to U.S. drivers?
12. How can you be assured that checks of "every truck, every time" are being conducted, unless agreements have been reached with the U.S. Customs and Border Protection (CBP) to permit state or FMCSA personnel access to the primary screening points or equivalent locations so they may ensure that 100 percent of demonstration program participants are selected for license checks/inspections? Or, alternatively, are automated systems in place to ensure that all demonstration program participants are selected for license checks/inspections every time they enter the U.S.? Will the demonstration program be delayed until such agreements or systems are in place? If not, what alternatives have been established?

Assessing the Overall Result of the Demonstration Program:

13. Given that the participants in the demonstration program are volunteers, can the group be said to be a representative sample of potential future long-haul Mexican operators? If the sample is a judgmental sample, what steps will be taken to ensure that it represents a fair sample? If the participants are not representative, can the Department still get valid results?
14. How will FMCSA measure the success of the demonstration program? For example, will the absence of adverse safety information be sufficient to deem it a success or will a specific level of safety performance be required (e.g. a crash rate no higher than a certain value). If the former, what will constitute adverse safety impact? If the latter, what specific safety level or levels will be required?
15. Will any elements of the demonstration program evaluation be designed to test the validity of prior determinations made regarding the comparability of the Mexican and U.S. systems? The current system and the demonstration program operate on the assumption that the Mexican Licencia Federal is equivalent to the U.S. Commercial Driver's License, a determination made by

- the Department in 1991. If this determination will not be tested, will the Safety Evaluation Panel examine the basis for this prior determination?
16. Information on the Mexican Government website provides detailed information on state officials Mexican carriers should contact in Arizona, New Mexico, Texas, and California regarding certain fees and taxes generally collected on U.S. carriers through the International Registration Plan and International Fuel Tax Agreement. These fee and tax plans rely on carriers to report fuel they purchase and miles traveled by state. Will the border states be handling Mexican carriers for the purposes of these programs? If so, will information provided by Mexican carriers to confirm miles traveled also be used for safety rates? Further, if such information shows little travel outside the border states, does this mean the demonstration program is limited to the border states? If so, will this bias the program's overall result?
17. While the demonstration program does not include passenger carriers, will passenger carriers be authorized to apply for long-haul authority if the demonstration program is deemed successful? Information published on the Internet by the Mexico Ministry of Economy states that while the demonstration program excludes passenger carriers, once the border is fully opened under NAFTA, cross-border passenger carriers will be allowed to operate long-haul in the U.S. If this is the case, would an additional demonstration program be required for passenger carriers? If this is not the case, should safety issues regarding passenger carriers be considered during the demonstration program? Would similar factors apply to hazardous materials carriers?

EXHIBIT D. MAJOR CONTRIBUTORS TO THIS REPORT

THE FOLLOWING INDIVIDUALS CONTRIBUTED TO THIS REPORT.

<u>Name</u>	<u>Title</u>
Joe Com�	Program Director
Joan Becker	Project Manager
David Pouliott	Project Manager
Kimberley Bolding	Senior Auditor
Pat Conley	Senior Auditor
Tony Saraco	Senior Auditor
Gerry Sheeran	Senior Auditor
Maurice Toval	Senior Auditor
Marvin Tuxhorn	Senior Auditor
Kate Conway	Analyst
Charlie Denno	Auditor
Constance Hardy	Analyst
Michael Masoudian	Analyst
Regan Maund	Analyst
Calvin Moore	Analyst
Scott Williams	Analyst
Tom Lehrich	Chief Counsel
Seth Kaufman	Associate Counsel
Petra Swartzlander	Statistician
Andrea Nossaman	Writer-Editor

APPENDIX A. FMCSA MANAGEMENT COMMENTS



U.S. Department
Of Transportation

Federal Motor Carrier
Safety Administration

Memorandum

Subject: **INFORMATION:** Response to the Office of the Inspector General's (OIG) Draft Report "FMCSA Compliance with Mexican Motor Carrier Cross-Border Safety Recommendations – Initial Report" Project No. 07M3008M000

Date:

August 27, 2007

From: John H. Hill
Administrator

Reply to MC-E

Attn. of: William Quade

To: Rebecca Anne Batts
Acting Assistant Inspector General
for Surface and Maritime Programs

The Federal Motor Carrier Safety Administration (FMCSA) appreciates the opportunity to review the draft report titled, "FMCSA Compliance with Mexican Motor Carrier Cross-Border Safety Requirements-Initial Report." The FMCSA also appreciates OIG's efforts which resulted in the timely completion of both the audit and report required under section 6901(b)(1) of Public Law 1 10-28.

On August 20, 2007, staff from FMCSA and OIG met to review the "Discussion Draft" of the report. The FMCSA will submit a report to Congress detailing the actions the Agency is taking to address each issue raised by the OIG in this report, as required by section 6901(b)(2)(A) of Public Law 1 10-28.

If you need additional information or clarification, please do not hesitate to contact me, or William Quade, Associate Administrator for Enforcement and Program Delivery at 202-366-2172.

APPENDIX B. PUBLIC LAW 107-87, SECTION 350(a)

No.	Section 350 Reference	Requirement Language
	§350(a)	(a) No funds limited or appropriated in this Act may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—
1	§350(a)(1)(A)	requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;
	§350(a)(1)(B)	requires the safety examination to include—
2	§350(a)(1)(B)(i)	verification of available performance data and safety management programs;
3	§350(a)(1)(B)(ii)	verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations;
4	§350(a)(1)(B)(iii)	verification of that motor carrier’s system of compliance with hours-of-service rules, including hours-of service records;
5	§350(a)(1)(B)(iv)	verification of proof of insurance;
6	§350(a)(1)(B)(v)	a review of available data concerning that motor carrier’s safety history, and other information necessary to determine the carrier’s preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations;
7	§350(a)(1)(B)(vi)	an inspection of that Mexican motor carrier’s commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in subsection (a)(5);
8	§350(a)(1)(B)(vii)	an evaluation of that motor carrier’s safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;
9	§350(a)(1)(B)(viii)	verification of drivers’ qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority; and
10	§350(a)(1)(B)(ix)	an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices.
	§350(a)(1)(C)	requires that—
11	§350(a)(1)(C)(i)	Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite; and
12	§350(a)(1)(C)(ii)	such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year.
13	§350(a)(2)	requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that—
14	§350(a)(2)(A)	Mexican motor carriers with three or fewer commercial vehicles need not undergo onsite compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site; and

No.	Section 350 Reference	Requirement Language
15	§350(a)(2)(B)	any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under (a)(1)(C), shall undergo an on-site safety compliance review under this section.
16	§350(a)(3)	requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;
17	§350(a)(3)(A)	for every such vehicle carrying a placardable quantity of hazardous materials;
18	§350(a)(3)(B)	whenever the inspection required in subsection (a)(5) is performed; and
19	§350(a)(3)(C)	randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles.
20	§350(a)(4)	gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;
21	§350(a)(5)	requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years—
22	§350(a)(5)(A)	inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage;
23	§350(a)(5)(B)	a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection; and
24	§350(a)(5)(C)	that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted.
25	§350(a)(6)	requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;
26	§350(a)(7)(A)	equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings; and
27	§350(a)(7)(B)	initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems;
28	§350(a)(8)	the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States;

No.	Section 350 Reference	Requirement Language
29	§350(a)(9)	requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections.
	§350(a)(10)	publishes—
30	§350(a)(10)(A)	interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination;
31	§350(a)(10)(B)	interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;
32	§350(a)(10)(C)	a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 note) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;
33	§350(a)(10)(D)	a policy under section 219(d) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States; and
34	§350(a)(10)(E)	a policy under section 219(a) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from operating in the United States that is found to have operated illegally in the United States.

The following pages contain textual versions of the graphs and charts found in this document. These pages were not in the original document but have been added here to accommodate assistive technology.

Issues Pertaining to the Proposed NAFTA Cross-Border Trucking Demonstration Project

Section 508 Compliant Presentation

Figure 1. Long Lines of Trucks Waiting To Enter the United States From Mexico

Figure 1 is a picture of long lines of Mexican trucks waiting to enter the Customs and Border Protection primary booths at the El Paso/Ysleta, Texas, border crossing. This picture was taken by the Office of Inspector General (OIG) during an on-site review in June 2007.

Figure 2. State Motor Carrier Safety Assistance Program Coordinator Areas of Concern

Figure 2 is a bar chart that depicts the OIG analysis of state's responses to an OIG survey of Motor Carrier Safety Assistance Program Coordinators. The Coordinators' response focus on areas of concern related to implementing the demonstration project. The OIG survey was conducted from June 22 through August 1, 2007, and resulted in the following categories of concerns and number of concerns per category:

English Language	10 concerns
Out-Of-Service	6 concerns
Database	3 concerns
Enforcement	3 concerns
Immigration	1 concern
Security	1 concern
Decals	1 concern
Other	7 concerns

Figure 3. Inspection Facility in Otay Mesa, California

Figure 3 is a picture of the enclosed state inspection facility in Otay Mesa, California, taken by the OIG during an on-site review in June 2007. The picture shows two trucks, the first truck is already in an inspection bay. The second truck is entering an inspection bay where a FMCSA inspector is standing. The inspection bay this truck is entering includes an inspection pit in the floor that can be used to inspect the underside of a truck.

Figure 4. Process for Granting OP-1 (Long-Haul) Provisional Operating Authority

Figure 4 depicts the process FMCSA identified for granting provisional operating authority for Mexican long-haul carriers.

- First, the Mexican motor carrier submits an application.
- Second, FMCSA reviews the application.
- Third, FMCSA conducts the pre-authorization safety audit (PASA).
- Fourth, notice of carrier's pending authority is published in the FMCSA Register.
- Fifth, an opportunity is provided for public comment.
- Sixth, the Mexican carrier's insurance coverage is verified.
- Seventh, provisional operating authority is granted to the Mexican carrier by FMCSA.

Figure 5. Inspection of Mexican Applicant's Vehicle During the PASA

Figure 5 is a picture of FMCSA personnel conducting a pre-authorization safety audit at a Mexican carrier facility in Ciudad Juarez, Mexico, in July 2007. This picture was taken by the OIG while observing the PASA. The picture shows the front driver's side of a truck. The truck's front hood is opened and the engine compartment is exposed. Standing next to the truck are FMCSA personnel inspecting the vehicle and two OIG staff observing the inspection.

Appendix B. Public Law 107-87, Section 350 (a)

Appendix B provides a table identifying the 34 requirements OIG identified under Section 350(a). Requirements are presented verbatim from the public law.

Section 350(a) overall requirement: No funds limited or appropriated in this Act may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—

Section 350(a)(1)(A) has one requirement

- OIG identified requirement number 1: requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border [Section 350(a)(1)(A)];

Section 350(a)(1)(B) has nine subsections, and requires the safety examination to include—

- OIG identified requirement number 2 - verification of available performance data and safety management programs [Section 350(a)(1)(B)(i)];
- OIG identified requirement number 3 - verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations [Section 350(a)(1)(B)(ii)];
- OIG identified requirement number 4 - verification of that motor carrier's system of compliance with hours-of-service rules, including hours-of service records [Section 350(a)(1)(B)(iii)];
- OIG identified requirement number 5 - verification of proof of insurance [Section 350(a)(1)(B)(iv)];
- OIG identified requirement number 6 - a review of available data concerning that motor carrier's safety history, and other information necessary to determine the carrier's preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations [Section 350(a)(1)(B)(v)];
- OIG identified requirement number 7 - an inspection of that Mexican motor carrier's commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in Section 350(a)(5) [Section 350(a)(1)(B)(vi)];
- OIG identified requirement number 8 - an evaluation of that motor carrier's safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections [Section 350(a)(1)(B)(vii)];
- OIG identified requirement number 9 - verification of drivers' qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority [Section 350(a)(1)(B)(viii)];
- OIG identified requirement number 10 - an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices [Section 350(a)(1)(B)(ix)].

Section 350(a)(1)(C) has two subsections and requires that:

- OIG identified requirement number 11 - Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite [Section 350(a)(1)(C)(i)];

- OIG identified requirement number 12 - such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year [Section 350(a)(1)(C)(ii)].

Section 350(a)(2) has two subsections and requires that:

- OIG identified requirement number 13 - requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that [Section 350(a)(2)]:
- OIG identified requirement number 14 - Mexican motor carriers with three or fewer commercial vehicles need not undergo onsite compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site [Section 350(a)(2)(A)];
- OIG identified requirement number 15 - any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under Section 350(a)(1)(C), shall undergo an on-site safety compliance review under this section [Section 350(a)(2)(B)].

Section 350(a)(3) has three subsections and requires that:

- OIG identified requirement number 16 - Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;
- OIG identified requirement number 17 - for every such vehicle carrying a placardable quantity of hazardous materials [Section 350(a)(3)(A)];
- OIG identified requirement number 18 - whenever the inspection required in Section 350(a)(5) is performed [Section 350(a)(3)(B)];
- OIG identified requirement number 19 - randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles [Section 350(a)(3)(C)].

Section 350(a)(4) has one requirement.

- OIG identified requirement number 20 - gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations

including hours-of-service rules under part 395 of title 49, Code of Federal Regulations [Section 350(a)(4)].

Section 350(a)(5) has three subsections and requires that:

- OIG identified requirement number 21 - requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years [Section 350(a)(5)]—
- OIG identified requirement number 22 - inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage [Section 350(a)(5)(A)];
- OIG identified requirement number 23 - a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection [Section 350(a)(5)(B)]; and
- OIG identified requirement number 24 - that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring re-inspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted [Section 350(a)(5)(C)].

Section 350(a)(6) has one requirement.

- OIG identified requirement number 25 - requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations [Section 350(a)(6)].

Section 350(a)(7) has two subsections and requires that:

- OIG identified requirement number 26 - equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle

traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings [Section 350(a)(7)(A)]; and

- OIG identified requirement number 27 - initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems [Section 350(a)(7)(B)].

Section 350(a)(8) has one requirement.

- OIG identified requirement number 28 - the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States [Section 350(a)(8)].

Section 350(a)(9) has one requirement.

- OIG identified requirement number 29 - requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections [Section 350(a)(9)].

Section 350(a)(10) has five subsections and requires that FMCSA publish:

- OIG identified requirement number 30 - interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination [Section 350(a)(10)(A)];
- OIG identified requirement number 31 - interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors [Section 350(a)(10)(B)];

- OIG identified requirement number 32 - a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 note) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border [Section 350(a)(10)(C)];
- OIG identified requirement number 33 - a policy under section 219(d) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States [Section 350(a)(10)(D)]; and
- OIG identified requirement number 34 - a policy under section 219(a) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from operating in the United States that is found to have operated illegally in the United States [Section 350(a)(10)(E)].