



## FMCSA Generally Met Requirements for Cross-Border Carriers' Long-Haul Operations, but Compliance Reviews Were Not Timely

Report ST2023040  
August 2, 2023



## FMCSA Generally Met Requirements for Cross-Border Carriers' Long-Haul Operations, but Compliance Reviews Were Not Timely

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*Directed by the United States-Mexico-Canada Agreement Statement of Administrative Action*

**Federal Motor Carrier Safety Administration | ST2023040 | August 2, 2023**

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### What We Looked At

Moving international cargo across the United States-Mexico border, including via long-haul trucks, is essential to our economy. Pursuant to the United States-Mexico-Canada Agreement (USMCA) Implementation Act, in August 2021, the Federal Motor Carrier Safety Administration (FMCSA) submitted a report to Congress on all existing grants of operating authority to, and pending applications for operating authority from, all Mexico-domiciled and Mexican-owned or -controlled motor property carriers with authority to operate beyond the United States-Mexico border commercial zones. The USMCA Statement of Administrative Action directed our office to review the Department's actions to determine whether each motor carrier with any operating authority covered by FMCSA's reporting requirement complies with applicable Federal motor carrier safety laws and regulations. Our objectives were to determine whether FMCSA (1) met requirements in authorizing Mexico-domiciled and Mexican-owned or -controlled motor carriers to conduct long-haul trucking operations beyond border commercial zones and (2) monitored those carriers to ensure they are operating safely.

### What We Found

FMCSA generally followed Federal regulations and its standard operating procedures and processes when provisionally authorizing and monitoring cross-border carriers' long-haul operations in the United States. The Agency also has an adequate tracking system to determine when carriers are due for a review to ensure they are complying with these regulations. However, FMCSA did not always conduct timely compliance reviews of carriers operating under provisional authority, which hinders FMCSA's ability to fully assess and mitigate carrier safety risks, resulting in increased risk that unsafe carriers may be operating on the Nation's roadways.

### Our Recommendations

FMCSA concurred with our three recommendations to improve its adherence to requirements in authorizing and monitoring Mexico-domiciled and Mexican-owned or -controlled motor carriers. We consider these recommendations resolved but open pending completion of planned actions.

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## Memorandum

Date: August 2, 2023

Subject: ACTION: Final Report—FMCSA Generally Met Requirements for Cross-Border Carriers' Long-Haul Operations, but Compliance Reviews Were Not Timely | Report No. ST2023040

From: David Pouliott   
Assistant Inspector General for Surface Transportation Audits

To: Federal Motor Carrier Safety Administrator

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Moving international cargo across the United States-Mexico border, including via long-haul trucks, is essential to our economy. Pursuant to the United States-Mexico-Canada Agreement (USMCA) Implementation Act,<sup>1</sup> in August 2021, the Federal Motor Carrier Safety Administration (FMCSA) submitted a report to Congress on all existing grants of operating authority to, and pending applications for operating authority from, all Mexico-domiciled and Mexican-owned or -controlled motor property carriers with authority to operate beyond the United States-Mexico border commercial zones.<sup>2</sup>

The USMCA Statement of Administrative Action directed our office to review the Department of Transportation's actions to determine whether each motor carrier with any operating authority covered by FMCSA's reporting requirement complies with applicable Federal motor carrier safety laws and regulations and section 350 requirements.<sup>3</sup>

Accordingly, our objectives for this review were to determine whether FMCSA (1) met requirements in authorizing Mexico-domiciled and Mexican-owned or -controlled motor carriers to conduct long-haul trucking operations beyond

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<sup>1</sup> Pub. L. 116-113, Section 327 (2020).

<sup>2</sup> Commercial zones are areas near the United States-Mexico border where carriers can operate with authority granted via FMCSA's OP-2 application; we refer to these carriers as OP-2 carriers. These areas are defined in 49 CFR Part 372, Subpart B.

<sup>3</sup> Section 350 of Title III of the Department of Transportation and Related Agencies Appropriations Act, 2002 (Pub. L. 107-87, 115 Stat. 833, 864), set requirements that FMCSA must meet prior to granting Mexico-domiciled motor carriers' authority to operate in the United States. Subsequent appropriations acts through fiscal year 2018 continued to apply the terms and conditions of section 350.

border commercial zones and (2) monitored those carriers to ensure they are operating safely.

We conducted this audit in accordance with generally accepted Government auditing standards. We evaluated FMCSA's mechanisms for providing oversight to verify whether Mexico-domiciled and Mexican-owned or -controlled motor carriers (cross-border carriers) with authority to operate beyond border commercial zones are meeting Federal safety requirements. We analyzed a random sample of these motor carriers. Finally, we reviewed and verified FMCSA's data on out-of-service<sup>4</sup> rates for various carrier groups. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Kerry R. Barras, Program Director.

cc:     The Secretary  
          DOT Audit Liaison, M-1  
          FMCSA Audit Liaison, MCPRS 2

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<sup>4</sup> A driver placed out of service may not operate a commercial motor vehicle until the reason for the out-of-service order is remedied. Similarly, a commercial vehicle placed out of service may not be operated until all repairs required by the out-of-service order are satisfactorily completed.

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## Results in Brief

**Although FMCSA generally met requirements for provisionally authorizing cross-border carriers to conduct long-haul operations, it did not always conduct timely compliance reviews.**

Based on our analysis, FMCSA generally followed Federal regulations and its standard operating procedures and processes when provisionally authorizing cross-border carriers' long-haul operations in the United States, including reviewing their applications and conducting required pre-authorization and new entrant safety audits. We analyzed 49<sup>5</sup> cross-border carrier applications from 1,333 provided by FMCSA between May and June 2022,<sup>6</sup> including 25 OP-1(MX)<sup>7</sup> carriers and 24 Enterprise<sup>8</sup> carriers.

However, FMCSA did not conduct timely compliance reviews of carriers operating under provisional authority. Federal regulations<sup>9</sup> require that FMCSA will conduct a compliance review on a Mexico-domiciled carrier within 18 months after the Agency issues provisional operating authority to that carrier.<sup>10</sup> Among all 83 OP-1(MX) carriers that received OP-1(MX) authority as of January 1, 2023, we found that 53<sup>11</sup> (64 percent) did not receive a compliance review within 18 months of receiving provisional operating authority. Thirty-eight of these 53 carriers had not received a compliance review at all after having had provisional authority for an average of over 40 months, with the longest for over 85 months. Further, FMCSA had not conducted a compliance review of a cross-border carrier since January 2020. The Agency has an adequate tracking system to determine when carriers are due for a compliance review. Nevertheless, according to an FMCSA official, the Agency did not meet the timeliness requirement for various reasons, such as the COVID-19 pandemic and carriers not having adequate roadside inspection

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<sup>5</sup> We selected a statistical random sample of 38 OP-1(MX) carriers and 64 Enterprise carriers, but after finding consistent results, ended our review after evaluating 25 OP-1(MX) and 24 Enterprise carriers.

<sup>6</sup> One carrier was omitted from the original listing and our sampling. That carrier was later provided in November 2022 and added to our analysis.

<sup>7</sup> OP-1(MX) is a designation on the form used by carriers to apply for Mexico-domiciled long-haul cross-border operating authority. FMCSA uses this designation as shorthand to describe this carrier group.

<sup>8</sup> OP-1 is a designation on the form used by carriers to apply for U.S. property/broker authority and U.S.-domiciled Enterprise Carrier of International Cargo.

<sup>9</sup> 49 CFR 385.103(e).

<sup>10</sup> 49 CFR 385.117(c) states that at the end of the 18-month period, if FMCSA has not been able to conduct a compliance review, the carrier will remain in the Agency's safety monitoring system until a compliance review is conducted.

<sup>11</sup> Twenty-five of these motor carriers had their compliance reviews delayed beyond 18 months due to the COVID-19 National Emergency. The compliance reviews for the other 28 motor carriers were delayed due to operational concerns, such as lack of interstate motor carrier operations.

data. To its credit, FMCSA has a variety of intervention tools that are used to continuously monitor motor carrier safety performance. However, without timely compliance reviews, FMCSA may not identify potential carrier safety concerns, resulting in increased risk that unsafe carriers operate on the Nation's roadways.

**FMCSA monitors cross-border carriers' safety metrics to evaluate if they are operating at a comparable safety level to U.S. carriers.**

To evaluate the overall safety performance of cross-border carriers, FMCSA monitors several carrier safety metrics—such as vehicle and driver out-of-service rates, inspections per truck, roadside violations, crash rates, and carrier safety ratings. According to FMCSA, Mexico-domiciled carriers' safety performance is as good as or better than U.S. carriers. Based on our review of the Agency's safety data on vehicle and driver out-of-service rates for fiscal year 2022, we confirmed that OP-1(MX) carriers had a vehicle out-of-service rate under 15 percent in fiscal year 2022, compared with over 22 percent for U.S. carriers. Similarly, OP-1(MX) carriers had a driver out-of-service rate of under 1 percent in fiscal year 2022, compared with over 7 percent for U.S. carriers.

We are making recommendations to strengthen FMCSA's oversight of Mexico-domiciled carriers regarding conduct of timely compliance reviews.

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## Background

In its August 24, 2021, report to Congress, FMCSA identified 1,274 carriers, comprised of three groups of Mexico-domiciled and Mexican-owned or controlled property motor carriers with authority to operate beyond the border commercial zones. These three groups included OP-1(MX) long-haul motor carriers, OP-1 Enterprise motor carriers, and Certificate<sup>12</sup> motor carriers, as follows:

- 64 active and 7 pending OP-1(MX) carriers;
- 1,037<sup>13</sup> active and 5 pending Enterprise carriers; and,
- 173 active Certificate carriers.<sup>14</sup>

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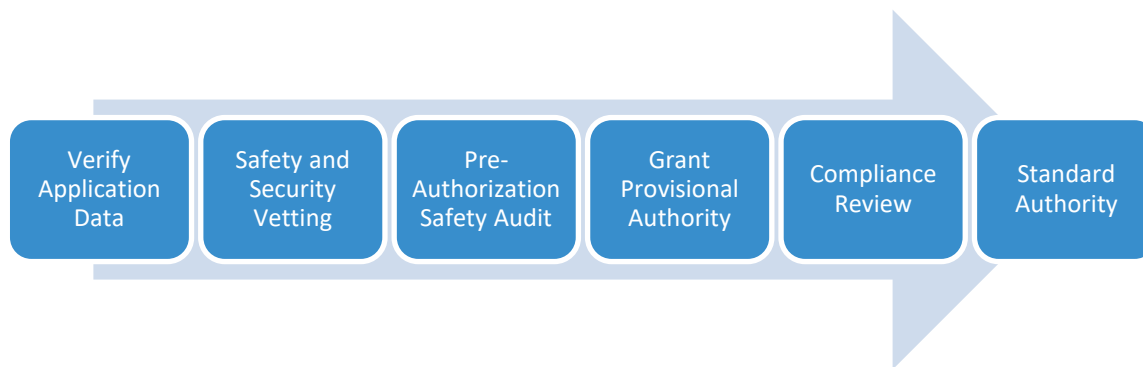
<sup>12</sup> A certificate carrier is domiciled in Mexico and operates as a private motor carrier of property or transports exempt commodities beyond the U.S.-Mexico border commercial zones. FMCSA discontinued issuing new certificates of registration in 2002.

<sup>13</sup> One carrier was identified by FMCSA to be Mexico-domiciled but was misidentified in its report to Congress.

<sup>14</sup> Due to differences in timing and selection criteria, the universe of carriers from which we selected our samples were 83 for OP-1(MX) carriers and 1,092 for Enterprise carriers. We also reviewed safety monitoring information for 24 of 158 Certificate carriers.

To fulfill statutory<sup>15</sup> and regulatory<sup>16</sup> requirements, FMCSA developed policies and procedures to monitor the safety of motor carriers operating in interstate or foreign commerce and to enforce compliance with those requirements. FMCSA's major oversight processes for OP-1(MX) carriers are illustrated in figure 1.

Figure 1. FMCSA's Oversight and Monitoring Processes for Authorizing OP-1(MX) Carriers



Source: OIG analysis

Specifically, after verifying that a carrier's OP-1(MX) application for cross-border long-haul authority is complete, FMCSA conducts carrier safety and security vetting. Safety vetting includes reviewing carriers' information in FMCSA's registration and safety data systems, while security vetting includes a check of law enforcement systems and coordination with Customs and Border Protection. FMCSA is then required under Federal regulations to conduct a pre-authorization safety audit (PASA), which determines if a carrier has basic safety management controls to operate in compliance with the Federal Motor Carrier Safety Regulations. A PASA is a comprehensive review of a carrier's safety management systems and evaluates the carrier's current and historical safety performance. Specifically, a PASA requires the carrier to demonstrate that it has a controlled substance and alcohol testing program, a system for complying with hours-of-service requirements, proof of financial responsibility, records of periodic maintenance, repair, and inspections of vehicles used in the United States, and qualified drivers for operations in the United States.

After completing the PASA, FMCSA grants provisional operating authority<sup>17</sup> to the carrier, which allows the carrier to begin long-haul operations beyond the commercial border zones. Under provisional authority, FMCSA will monitor

<sup>15</sup> 49 U.S.C. § 31144.

<sup>16</sup> 49 CFR Part 385, Subpart B, "Safety Monitoring System for Mexico-domiciled carriers." These regulations incorporate a number of section 350 requirements, including the requirements to conduct Pre-Authorization Safety Audits (PASAs) and the 18-month requirement for compliance reviews.

<sup>17</sup> 49 CFR §§ 365.507T, 385.101.



carrier's performance through its safety monitoring program, including roadside inspections. These carriers' drivers and vehicles are subject to inspections as they cross the border and as they operate throughout the United States.

Within 18 months of granting provisional authority to an OP-1(MX) carrier under FMCSA's safety monitoring program, the Agency is required to conduct a compliance review<sup>18</sup> of that carrier. A compliance review is an examination of motor carrier operations, such as drivers' hours of service, vehicle maintenance and inspection, driver qualification, commercial driver's license requirements, carrier financial responsibility, crashes, hazardous materials, and other safety and transportation records to determine whether a carrier meets the safety fitness standard.<sup>19</sup> After the compliance review is completed and if the carrier receives a satisfactory rating, provisional authority converts to standard authority.<sup>20</sup> Under standard authority, the carrier continues to be monitored via FMCSA's risk-based monitoring system. Additionally, a Mexico-domiciled carrier granted standard operating authority must have its vehicles inspected every 3 months and display a current inspection decal attesting to the successful completion of such an inspection for at least 3 consecutive years after receiving standard operating authority from FMCSA.<sup>21</sup>

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## Although FMCSA Generally Met Requirements for Provisionally Authorizing Cross-Border Carriers to Conduct Long-Haul Operations, It Did Not Always Conduct Timely Compliance Reviews

FMCSA generally followed Federal requirements for provisionally authorizing cross-border carriers to conduct long-haul operations in the United States. However, FMCSA did not conduct timely compliance reviews of cross-border carriers operating under provisional authority.

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<sup>18</sup> 49 CFR § 385.103(e).

<sup>19</sup> 49 CFR § 385.3.

<sup>20</sup> 49 CFR § 385.117.

<sup>21</sup> 49 CFR § 365.511.

## FMCSA Followed Requirements for Provisionally Authorizing Carriers to Conduct Long-Haul Operations and Monitoring Safety

Based on our analysis of 49 cross-border carrier applications from 1,333 provided by FMCSA between May and June 2022, including 25 OP-1(MX) carriers and 24 Enterprise carriers, FMCSA generally complied with Federal regulations and followed its standard operating procedures and processes in provisionally authorizing cross-border long-haul operations and conducting required safety monitoring.

While FMCSA's August 2021 report also included 173 Mexico-domiciled certificate carriers, we did not review FMCSA's procedures for authorizing them because the Agency has not issued certificates of registration for long-haul operations since 2002. However, we did include a review of 24 certificate carriers in our evaluation of FMCSA's safety monitoring activities. We also verified that FMCSA's standard operating procedures align with the Federal Motor Carrier Safety Regulations (see table 1).

Table 1. FMCSA's Compliance With Requirements for Authorizing and Monitoring Cross-Border Carriers

Regulatory and Procedural Requirements	Source of Requirement	OP-1(MX)	Enterprise	Certificate
Verifying Application Data	49 CFR 365.101, 49 CFR 365.109, 49 CFR 365.507T	✓	✓	N/A
Conducting PASA or New Entrant Safety Audit*	49 CFR 385.307, 49 CFR 365.507T, 49 CFR Part 365, Subpart E, App. A	✓	✓	N/A
Verifying Carrier Proof of Insurance**	49 CFR Part 387	✓	✓	N/A
Identifying Process Servers**	49 CFR 365.503, 49 CFR Part 366	✓	✓	N/A
Conducting Compliance Reviews	49 CFR 385.3, 49 CFR 385.103	⚠	✓	✓

Regulatory and Procedural Requirements	Source of Requirement	OP-1(MX)	Enterprise	Certificate
Collecting Safety Profile Data, including Inspection and Crash History	49 USC 31106, 49 CFR Part 385 App. B, FMCSA's Safety Measurement System Methodology	✓	✓	✓
Conducting Enforcement Activities	49 CFR 390.37, 49 CFR Part 386	✓	✓	✓

\* In contrast to OP-1(MX) carriers, enterprise carriers, like other U.S.-domiciled carriers, are processed through the New Entrant Safety Assurance program. Within 18 months of beginning operations, FMCSA schedules a new entrant safety audit which enterprise carriers must pass to continue operating in interstate commerce in the United States.

\*\* All long-haul carriers, except Certificate carriers, must maintain proof of a minimum level of financial responsibility on file with FMCSA and must have a registered process agent in every State in which their registration is valid.

Source: Federal Motor Carrier Safety Regulations, U.S. Code, FMCSA Policy, OIG analysis

## FMCSA Did Not Conduct Timely Compliance Reviews of OP-1(MX) Carriers Operating Under Provisional Authority

Although FMCSA followed regulations and procedures for issuing provisional authority to the cross-border carriers we reviewed, the Agency did not conduct timely compliance reviews of nearly 64 percent of OP-1(MX) carriers with provisional authority.

Federal regulations<sup>22</sup> state that FMCSA will conduct a compliance review on a Mexico-domiciled carrier within 18 months after the Agency issues the carrier provisional operating authority. This requirement is reiterated in a 2016 Agency policy memo and FMCSA's field operations manual. The manual further recommends that compliance reviews be conducted during the 16<sup>th</sup> month of provisional authority. Neither the manual nor the 2016 policy included exceptions for when a compliance review can be delayed beyond these requirements.

The regulations require that at the end of the 18-month period, if FMCSA has not been able to conduct a compliance review, the carrier will remain in the Agency's safety monitoring system until a compliance review is conducted. If the results of the compliance review are satisfactory, the carrier's provisional authority will convert to standard operating authority. However, if the carrier receives a lower

<sup>22</sup> 49 CFR § 385.103(e).

rating, FMCSA begins a suspension or revocation process unless the carrier can remediate its deficiencies.

During our initial review of 25 OP-1(MX) carriers, we determined that FMCSA had not conducted a compliance review of 17 carriers (68 percent) within the required 18-month period. Based on this finding, we expanded our compliance review timeliness analysis to all 83 carriers that had ever received OP-1(MX) authority.<sup>23</sup>

As of January 1, 2023, of these 83 carriers, 53 (63.9 percent) did not receive a compliance review within 18 months of receiving provisional operating authority. Of these 53 carriers, 15 received a compliance review after 18 months, and 38 had not received a compliance review at all. These 38 carriers had held provisional authority on average for 40.7 months without a compliance review. The longest had provisional authority for 85.4 months. See table 2 and figures 2 and 3.

While these compliance reviews were not timely, FMCSA did comply with Federal regulations that state that carriers will remain in the safety monitoring system until the compliance review is conducted.<sup>24</sup> FMCSA did not grant any of these carriers standard operating authority.

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Table 2. FMCSA's Timeliness for Conducting Compliance Reviews on OP-1(MX) Carriers

Category	Number of OP-1(MX) Carriers	Carriers Exceeding 18 Month Deadline
Carriers With Compliance Reviews	38	15
Carriers Without Compliance Reviews	45	38 <sup>25</sup>
All Carriers	83	53

Source: OIG analysis of FMCSA data as of January 1, 2023.

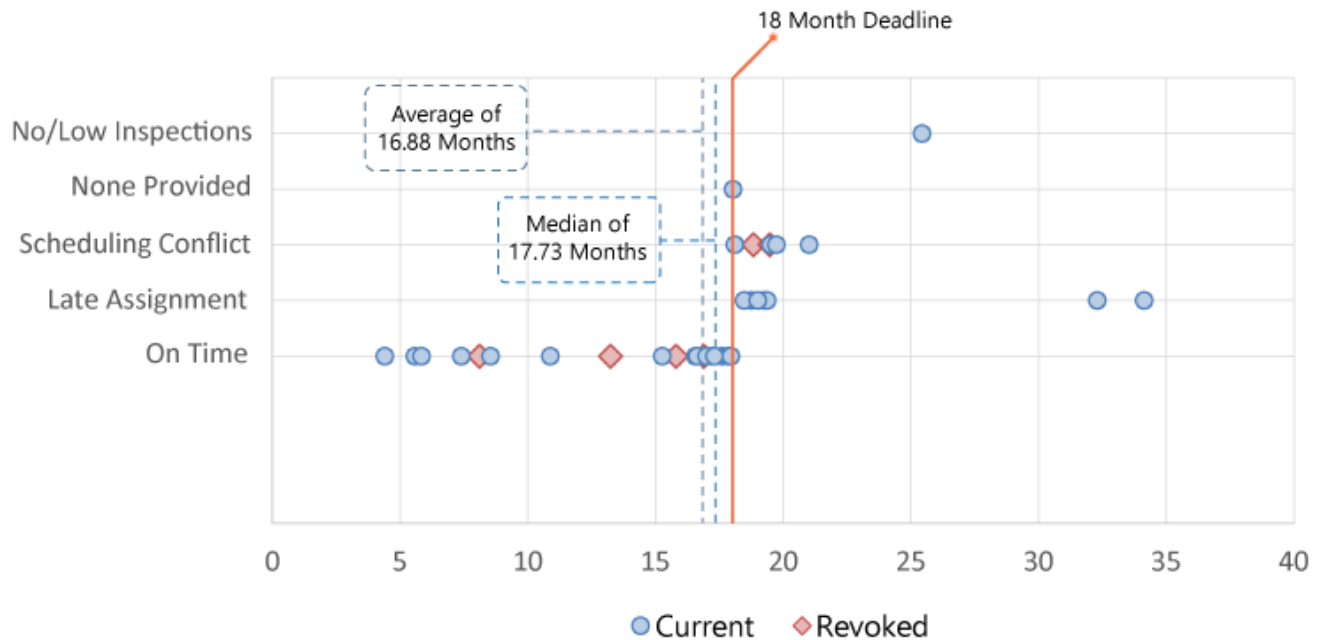
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<sup>23</sup> In its August 24, 2021, report to Congress, FMCSA identified 71 active and pending OP-1(MX) carriers. For our audit purposes, we evaluated all 83 carriers that have ever received OP-1(MX) authority.

<sup>24</sup> 49 CFR § 385.117(c).

<sup>25</sup> Seven carriers had their authority revoked before attaining 18 months of provisional authority.

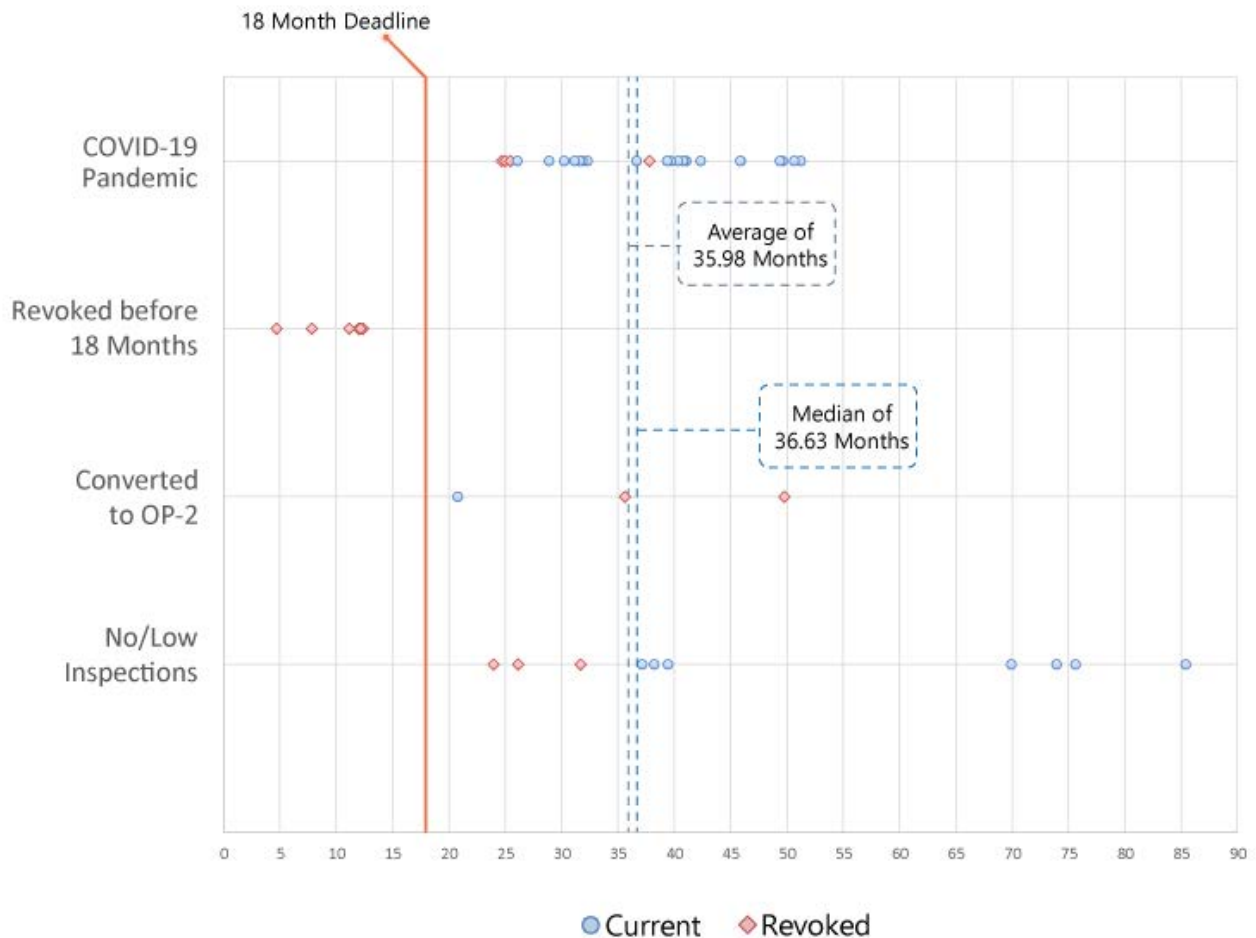
Figure 2. Months to Compliance Review and Reasons for Delay for Current and Revoked OP-1(MX) Carriers With Compliance Reviews



Source: OIG analysis of FMCSA data as of January 1, 2023

Note: Some carriers may not be visible due to the scale of this graphic. A carrier's authority can be revoked as a result of it voluntarily or involuntarily leaving the program. FMCSA conducted these compliance reviews between February 2013 and January 2020.

Figure 3. Months Provisional and Reasons for Delay for Current and Revoked OP-1(MX) Carriers Without Compliance Reviews



Source: OIG analysis of FMCSA data as of January 1, 2023

Note: Some carriers may not be visible due to the scale of this graphic. A carrier's authority can be revoked as a result of it voluntarily or involuntarily leaving the program. FMCSA granted these carriers provisional authority between November 2013 and October 2020.

FMCSA has an adequate tracking system to determine when carriers are due for a compliance review. However, according to an FMCSA official, the Agency did not meet the compliance review timeliness requirements for various reasons, such as scheduling conflicts with the carrier, late assignment of the carrier for review, or lack of adequate roadside inspection data.<sup>26</sup> According to FMCSA, completion of a compliance review without sufficient evidence of regulated operations will not

<sup>26</sup> Carriers' commercial vehicles are subject to safety inspections by FMCSA as they enter the U.S. and are subject to roadside inspections by States while operating within the United States.

allow the Agency to adequately assign a safety rating. The COVID-19 pandemic has also significantly affected FMCSA's ability to conduct compliance reviews in a timely manner—as part of its response to the pandemic, the Agency deferred all compliance reviews of OP-1(MX) carriers. As a result, FMCSA has not conducted a compliance review of a cross-border carrier since January 2020. Carriers whose compliance reviews were due before January 1, 2020, averaged 22.9 months (median 18.0 months) of provisional authority; however, including carriers due later, this average increases to 27.2 months (median 20.8 months). On April 6, 2023, during our review, the Agency revised its policy for completing reviews of these COVID-19-affected carriers and is working to schedule their reviews.

According to FMCSA, the elements of the PASA are very similar to the safety review conducted under a compliance review. Agency officials stated that while completion of a PASA does not replace a compliance review, satisfactory completion of the PASA may mitigate some of the risk from the delayed compliance reviews, but Agency regulations nevertheless require both a PASA and a compliance review. The PASA process provides FMCSA assurance that carriers have an initial plan to comply with safety regulations, but without timely compliance reviews, FMCSA may miss opportunities to identify carrier safety concerns that might not appear in a roadside inspection or other interventions. In addition, because compliance reviews can result in revoking or suspending provisional authority from carriers rated conditional or unsatisfactory, untimely compliance reviews could increase the risk that unsafe carriers are operating on the Nation's roadways.

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## FMCSA Monitors Mexico-Domiciled Carriers To Verify They Are Operating at a Comparable Safety Level to U.S. Carriers

As part of its safety monitoring actions, FMCSA compares the OP-1(MX) and certificate carriers to enterprise and other U.S.-domiciled carriers' safety performance data. Specifically, FMCSA reviews carrier safety performance metrics—such as vehicle and driver out-of-service rates, inspections per truck, roadside violations, crash rates, and safety ratings. The motor carrier's vehicle out-of-service rate is determined by the number of vehicles placed out of

service<sup>27</sup> in relation to the number of vehicles inspected. Driver out-of-service rates are determined by the same calculations.

Based on this data, which FMCSA updates regularly on its website, the Agency concluded that Mexico-domiciled carriers with existing authority to operate in the United States have safety performance indicators as good as or better than U.S. motor carriers.

We evaluated vehicle and driver out-of-service rates as a test case to evaluate the Agency's safety monitoring data. Our review confirmed that vehicle and driver out-of-service rates for fiscal year 2022 show that Mexico-domiciled carriers' safety performance is as good as or better than that of U.S. carriers. For example, OP-1(MX) carriers had a vehicle out-of-service rate of 14.9 percent in fiscal year 2022, compared with 22.6 percent for all U.S. carriers. The total number of inspections for each carrier group is included for context. See table 3 for OIG's analysis and comparison of this safety data.

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Table 3. Fiscal Year 2022 Out-of-Service Rates for Mexico-Domiciled and U.S.-Based Motor Carriers

Country	Carrier Group	Number of Inspections	Vehicle Out-Of-Service Rate	Driver Out-Of-Service Rate
Mexico	OP-1(MX)	7,858	14.87%	0.93%
Mexico	Certificate	1,875	21.72%	1.44%
U.S.	Enterprise	33,428	22.62%	2.29%
U.S.	All	2,754,272	22.62%	7.18%

Source: OIG analysis of FMCSA data

Note: The "U.S. All" Group includes the Enterprise carriers.

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## Conclusion

Overseeing motor carriers operating on U.S. roadways is at the heart of FMCSA's safety mission to reduce crashes. As part of this mission, FMCSA conducts monitoring activities to ensure that cross-border long-haul carriers are operating safely beyond commercial border zones in the United States. Overall, FMCSA's

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<sup>27</sup> The Commercial Vehicle Safety Alliance standard out-of-service criteria identify violations that render drivers unqualified and vehicles likely to cause an accident or break down.



monitoring data show these Mexico-domiciled carriers are operating at safety levels as well as or better than U.S. carriers. Nevertheless, FMCSA still has an obligation to improve the timeliness of the compliance reviews it conducts when provisionally authorizing cross-border long-haul carriers to operate. FMCSA's commitment to following its own requirements and procedures for compliance reviews could help the Agency identify and address potential safety risks with Mexico-domiciled carriers before crashes occur.

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## Recommendations

To improve FMCSA's adherence with its requirements in authorizing Mexico-domiciled and Mexican-owned or -controlled motor carriers to conduct long-haul trucking operations beyond border commercial zones and to monitor those carriers to ensure they are operating safely, we recommend the Federal Motor Carrier Safety Administrator:

1. Revise FMCSA's policy to define and allow for justifications for delaying compliance reviews beyond 18 months, and if delayed, determine how long a carrier should be permitted to continue to operate under provisional authority without a compliance review and require documentation of a decision to delay a carrier's review.
2. Determine whether a revision to the Federal Motor Carrier Safety Regulations is necessary to implement the compliance review policy revisions.
3. Develop and implement a recovery plan to complete compliance reviews for those carriers operating for more than 18 months under provisional authority and to establish a compliance review scheduling system for future provisional carriers.

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## Agency Comments and OIG Response

We provided FMCSA with our draft report on June 7, 2023, and received its response on July 18, 2023, which is included as an appendix to this report. FMCSA concurred with our three recommendations and provided appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

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## Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of planned actions.

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## Exhibit A. Scope and Methodology

This performance audit was conducted between April 2022 and June 2023. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our objective for this review was to determine whether FMCSA (1) met requirements in authorizing Mexico-domiciled and Mexican-owned or controlled motor carriers to conduct long-haul trucking operations beyond border commercial zones and (2) monitored those carriers to ensure they are operating safely.

To assess if FMCSA met requirements in authorizing Mexico-domiciled and Mexican-owned or controlled motor carriers to conduct long-haul trucking operations beyond border commercial zones, we reviewed FMCSA's policies, procedures, and regulations and determine which standards apply to FMCSA's decision to authorize carriers. We reviewed FMCSA's internal control system to determine if it has a reasonable assurance that reviews of approved carriers would be conducted. We obtained a listing with 1,333 Cross Border Carriers from FMCSA, which included 82 OP-1(MX) carriers, 1,093 Enterprise carriers, and 158 certificate carriers. We computed 2 sample sizes approximately proportionately based on the number of carriers. We selected a random attribute sample of 38 out of 82 OP-1(MX) carriers and 64 out of 1,093 Enterprise carriers to conduct a review of FMCSA's application approval actions and subsequent safety monitoring activities. After reviewing 24 of each of these sampled carriers and getting consistent results, we ended our review. FMCSA later identified an additional OP-1(MX) carrier that had not been included in our sample selection. We added this carrier to our review to ensure the integrity of our sample for a total of 25 OP-1(MX) carriers and 24 Enterprise carriers reviewed. Additionally, we reviewed FMCSA's safety monitoring activities for 24 out of 158 Certificate carriers.

To assess if FMCSA monitored carriers to ensure they are operating safely, we reviewed FMCSA's policies, procedures, and regulations related to safety monitoring to determine which requirements apply. We also obtained and reviewed the Agency's reports on carrier operating statistics, such as inspection and carrier out-of-service rates, crashes, and other information. Because crashes are rare events, we chose to replicate FMCSA's out-of-service analysis. We reviewed safety intervention information for our sample carriers and determined which carriers have received safety interventions from FMCSA, evaluating whether FMCSA's applications of its standards were consistent.

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## **Exhibit B.** Organizations Visited or Contacted

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### **FMCSA Facilities**

FMCSA Headquarters

FMCSA Texas Division Office

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## Exhibit C. List of Acronyms

DOT	Department of Transportation
OIG	Office of Inspector General
USMCA	United States-Mexico-Canada Agreement
FMCSA	Federal Motor Carrier Safety Administration
OP-1	Form used by carriers to apply for U.S. property/broker authority and U.S.-domiciled Enterprise Carrier of International Cargo
OP-1(MX)	Form used by Mexico-domiciled carriers to apply for long-haul, cross-border operating authority
OP-2	Form used by Mexico-domiciled carriers to apply for operating authority within U.S. commercial zones
PASA	Pre-authorization Safety Audit

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## Exhibit D. Major Contributors to This Report

KERRY R. BARRAS	PROGRAM DIRECTOR
RYAN SANDERS	PROJECT MANAGER
ZYGMUNT CZYKIETA	SENIOR ANALYST
KEVIN LYNCH	SENIOR ANALYST
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## Appendix A. Agency Comments




U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Administrator

1200 New Jersey Ave, SE  
Washington, DC 20590

From: Robin Hutcheson   
Administrator, Federal Motor Carrier Safety Administration  
x61927

To: David Pouliott  
Assistant Inspector General for Surface Transportation Audits  
x61844

Subject: INFORMATION: Management Response to Office of the Inspector  
(OIG) General Draft Report on FMCSA's Survey Report Summarizing  
Operating Authority for Mexico-domiciled Motor Carriers Operating  
Beyond the Border Commercial Zones

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The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving large trucks and buses. We operate a robust series of inspection, audit, investigation, outreach, and enforcement programs designed to achieve this mission. FMCSA has specific regulations, policies, and procedures to ensure Mexico-domiciled and Mexican-owned or controlled property carriers operating beyond the border commercial zones do so in a safe manner. We continually monitor these carriers, intervene when safety concerns are discovered, and take intervention measures such as warning letters, inspections, audits, and investigations, and enforcement actions including but not limited to out-of-service orders, enforcement cases, and suspension or revocation of registrations, as necessary. Our successful oversight of these carriers is evidenced by their low vehicle and driver out-of-service rates.

FMCSA acknowledges the Office of Inspector General (OIG) finding concerning the timeliness of compliance reviews. As discussed in the OIG's draft report, our efforts to conduct compliance reviews within 18 months of granting operating authority were hindered by the COVID-19 pandemic and other logistical and administrative issues. To address these issues FMCSA has:

- Published an enforcement policy on April 6, 2023, that will allow FMCSA to conduct compliance reviews on Mexico-domiciled motor carriers while addressing post-COVID- 19 safety concerns; and
- Begun revising its procedures for assigning compliance reviews to provide more time between the date assigned and the end of the 18-month period to alleviate tardiness due to scheduling conflicts and logistical difficulties.

Based on our review of the draft report, we accept the OIG's three recommendations as written.

FMCSA plans to complete actions to address Recommendations 1 and 2 by March 1, 2024. We will complete actions to address Recommendation 3 by September 1, 2023.

We appreciate the opportunity to review the OIG draft report. Please contact Keyanna Frazier, at 202-366-5081 with any questions.



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## Appendix B. Nongovernmental Organization Responses

*The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023<sup>1</sup> (NDAA) requires our office to inform nongovernmental organizations and business entities (NGOs) when they have been specifically identified in an OIG non-investigative report. NGOs have 30 days to review our report and may submit a written response. In accordance with the NDAA, we will notify NGOs and include their responses when applicable as required. Any claims or statements made within are wholly attributable to the NGOs alone. Any information or conclusions they may contain were not subject to Generally Accepted Government Auditing Standards nor verification by the Office of Inspector General.*

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<sup>1</sup>Pub. L. No. 117-263 (2022), Sec. 5274.



# Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

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August 24, 2023

David Pouliott  
Assistant Inspector General for Surface Transportation Audits  
U.S. Department of Transportation, Office of Inspector General  
1200 New Jersey Ave SE, 7th Floor  
Washington, DC 20590

Dear Mr. Pouliott,

Thank you for your letter notifying the Commercial Vehicle Safety Alliance (CVSA) of the reference to our organization in your office's recently issued report, entitled "FMCSA Generally Met Requirements for Cross-Border Carriers' Long-Haul Operations, but Compliance Reviews Were Not Timely" (Report No. ST2023040). CVSA appreciates the opportunity to review the report and respond.

The reference to CVSA, which occurs in the footnote on page 13 of the report, currently reads:

*The Commercial Vehicle Safety Alliance standard out-of-service criteria identify violations that render drivers unqualified and vehicles likely to cause an accident or break down.*

CVSA requests that your office consider the following change to the language referencing CVSA's out-of-service criteria, for accuracy and consistency in how the out-of-service criteria are described and understood:

*The Commercial Vehicle Safety Alliance standard out-of-service criteria identify critical vehicle inspection items that present an imminent hazard and detail the criteria that can prohibit a motor carrier or driver from operating a commercial motor vehicle for a specified period of time or until the condition is corrected.*

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America. If you have further questions or comments, please do not hesitate to contact me at 202-998-1008 or [collin.mooney@cvsa.org](mailto:collin.mooney@cvsa.org).

Respectfully,

Collin B. Mooney, MPA, CAE  
Executive Director  
Commercial Vehicle Safety

U.S. Department of Transportation  
Office of Inspector General

Fraud, Waste, & Abuse

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