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Implementation of Commercial Motor Carrier Safety Requirements at the U.S.-Mexico Border

**Statement of
The Honorable Kenneth M. Mead
Inspector General
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Madam Chairman, Mr. Chairman and Members of the Subcommittees:

We appreciate the opportunity to testify on the implementation of commercial vehicle safety requirements at the U.S.-Mexico border. The Fiscal Year (FY) 2002 Transportation and Related Agencies Appropriations Act (the Act) directed the Office of Inspector General (OIG) to conduct a comprehensive audit of border operations to verify whether safety requirements are in place.¹ The Act requires us to conduct another audit within 180 days and at least annually thereafter.

We completed our first required review within the stipulated 180 days and provided a report on this review to the Secretary on June 25, 2002. The Act requires the Secretary to address our findings on safety requirements and certify in writing that opening the border does not pose an unacceptable safety risk.

Congress established a good process in the Appropriations Act. It enabled us to bring information to the attention of the Secretary, Deputy Secretary, and the Federal Motor Carrier Safety Administration (FMCSA) as our work progressed so that actions could be taken and plans could be adjusted to close safety gaps.

The requirements that were written into this year's Appropriations Act were intended to ensure that some very basic safeguards will be in place when the U.S.-Mexico border opens to long-haul commercial traffic. For example, the law requires Mexican drivers to comply with U.S. hours-of-service requirements and have valid commercial driver's licenses (CDL) that will be checked as those drivers enter the United States in long-haul designated vehicles. Trucks that will be used in long-haul operations must be subjected to intensive inspections every 90 days and must display a unique Department of Transportation (DOT) number that identifies them as long-haul vehicles. Carriers must possess insurance issued by companies licensed in the United States, and must undergo safety exams before being granted provisional long-haul authority and will then have to undergo a safety compliance review within 18-months before that authority can become permanent.

¹ The Act directed the OIG to verify eight specific requirements that include (1) filling and training all new inspector positions, (2) training inspectors who will be conducting compliance reviews as safety specialists, (3) not transferring inspectors who will be conducting compliance reviews from elsewhere in the United States, (4) ensuring adequate capacity at each crossing to inspect and place vehicles out of service, (5) implementing a policy to ensure compliance with U.S. hours-of-service rules, (6) ensuring that Mexico's information infrastructure is sufficiently accurate, accessible and integrated with that of U.S. law enforcement, and that telecommunications links are adequate at all crossings and in mobile enforcement units operating adjacent to the border, (7) developing a database that is accessible and enables safety monitoring of carriers and drivers, and (8) establishing measures to ensure monitoring and enforcement of licensing of Mexican carriers.

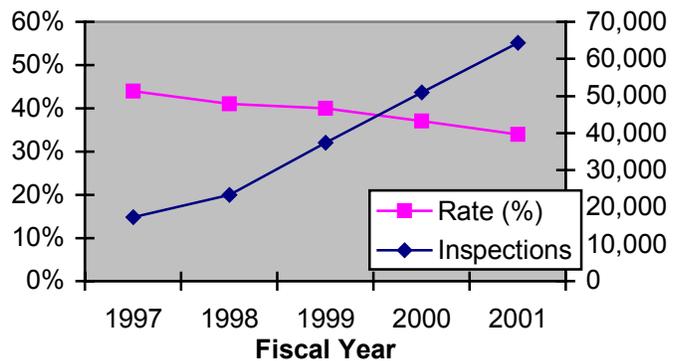
The Act provided \$140 million for FMCSA and the States to make sure these requirements are met. We have grouped the requirements into three categories: (1) hiring and training inspectors, (2) building new and improving existing inspection facilities, and (3) developing systems to monitor and ensure the safety of Mexican carriers operating long-haul vehicles in the United States.

Our efforts to verify these requirements included multiple trips to the 25 commercial border crossings—most recently on June 20—to verify the changes in staffing and inspection facilities. Our staff also met with Mexican officials and performed audit work in Mexico on the driver and carrier databases, which included performing real-time testing from the U.S. border crossings and mobile enforcement units operating in the border States.

Two factors will likely determine the ultimate effectiveness of the safeguards that have been put in place. First, the size of the workforce and the facilities needed to provide sufficient coverage of trucks and buses bound for the interior of the United States will be driven by the number of carriers that apply for long-haul operating authority. *The number of applications is picking up, and as of June 25, 2002, FMCSA had received applications from 40 carriers applying for long-haul authority. Twenty-six carriers indicated they intended to operate a combined total of 118 vehicles. Fourteen of the applications were incomplete and did not provide information on the number of vehicles they intend to operate long-haul in the United States. It is likely that over time, long-haul traffic will build, but we have no basis to forecast how quickly or to what extent that will occur.*

Second, there is a direct correlation between the condition of Mexican trucks entering the United States and the level of inspection resources at the border. *Our work has shown that the more likely the chance of inspection, the better the condition of the vehicles. As shown in Figure 1, the out-of-service rates for Mexican trucks seeking to enter the U.S. commercial zones declined from 44 percent in 1997 to 34 percent in 2001 as the number of inspections increased. Out-of-service rates by crossing are provided in the Attachment.*

Figure 1: Mexican Vehicle Out-of-Service Rates Compared to Number of Inspections Performed



Based on our verification work, FMCSA has made substantial progress in meeting the Act's requirements to hire and train inspectors, establish inspection facilities, and develop safety processes and procedures for Mexican long-haul carriers. However, there are a number of actions in process and planned that will require aggressive follow through to meet the Act's requirements. We have reviewed FMCSA's plans for completing these actions, and we believe that with two exceptions, which I will discuss shortly, they are credible and achievable within the next 45 to 60 days. We have made a series of recommendations to the Secretary that will assist the Department in tracking FMCSA's efforts to implement actions necessary to fully comply with the Act's requirements.

It is important to recognize that our efforts to date have focused on verifying that FMCSA has staff, facilities, equipment, and procedures in place to implement the basic requirements of the Act. The key once the border opens will be how effectively these resources are used and procedures are implemented. We will be monitoring this carefully during our required follow-on audits.

Also, as long-haul traffic materializes, it may be necessary for FMCSA and the States to adjust their inspection resources to meet the volume, location, and condition of that traffic. The Department will need to have a process for re-evaluating overall resource requirements and inspection facilities at the U.S.-Mexico border and to make adjustments as necessary to maintain adequate staffing and facilities.

Another matter that we want to bring to the attention of the Secretary and Congress is that currently, only two States – Arizona and California – have enacted legislation authorizing their enforcement personnel to take action when they encounter a vehicle operating without authority. Enforcement personnel in all States can place a vehicle out of service for serious safety violations but operating without valid operating authority is currently not considered a safety violation. In March 2000, FMCSA issued a rule requiring States to authorize their enforcement personnel to take action when they encounter a vehicle that does not have valid operating authority. States are to comply with this requirement by the end of FY 2003.

In 1999, we reported that at least 52 Mexican-domiciled motor carriers operated improperly in 20 States beyond the 4 border States. Roadside inspection data throughout the United States show this has continued. The primary concern is not necessarily long-haul carriers whose authority will be checked every 90 days, but rather carriers only authorized to operate in the commercial zones that continue beyond the zones. With the exception of Arizona and California, State enforcement personnel do not have authority to put them out of service.

If Congress and the Department want to accelerate the ability of States to enforce operating authority, there are several options for doing so that are described in our report.

I would like to turn now and briefly discuss some specific areas that our work has focused on.

Hiring and Training Inspectors. By July 31, 2002, FMCSA plans to have filled 198 of the 214 new inspector positions assigned to the U.S.-Mexico border. By that date, 171 of those inspector positions should be trained. The Act referred generically to all funded positions as “inspectors,” but in practice the 214 Federal positions will be responsible for a full range of activities, including inspecting trucks and drivers at the border, conducting safety exams, and performing compliance reviews and investigations.

- FMCSA has hired 138 of the 144 inspectors it plans to locate at the U.S.-Mexico border to conduct driver and vehicle inspections. This represents 60 inspectors that were at the border prior to the Act’s passage and another 78 new inspectors that have been hired since January. FMCSA needs to hire 6 more inspectors and 30 inspectors must be trained. All but 1 of the 30 inspectors will be trained by July 26, 2002. The remaining inspector is scheduled to come on board in August and will complete training in October.
- FMCSA has hired 91 auditors to conduct safety exams which evaluate basic safety management controls to determine if the Mexican carrier is able to operate safely in interstate commerce before being granted provisional authority to operate in the U.S. FMCSA exceeded its hiring goal of 67 auditors to ensure an adequate pool of auditors is available if attrition occurs, either through turnover during the hiring or training process, or if auditors are promoted to the higher-paying investigator or supervisor positions. Fifty auditors are fully trained and 17 more auditors will be trained by July 12 to bring the total to FMCSA’s goal of 67 trained auditors.
- FMCSA does not plan to begin hiring safety investigators until July because compliance reviews should not be required until October or November 2002 at the earliest and will not be conducted routinely until at least January 2003. Compliance reviews assess the safety performance of a carrier’s operations and its regulatory compliance as a basis for granting permanent operating authority. The Act provides up to 18 months before a compliance

review is required in order to allow motor carriers time to develop a history of operations against which FMCSA can measure compliance.

This differs from the immediate need for inspectors and auditors, who will perform vehicle and driver inspections and safety exams of Mexican long-haul carriers. The first training class for investigators ends on September 27, 2002, and 19 investigators should be fully trained to perform compliance reviews by that time. The remaining investigators should be hired and fully trained by November 22, 2002. *This area is one of the exceptions where FMCSA's plans are not scheduled for completion in the next 60 days.*

A circumstance that could require a compliance review before a history of operations is established would be if a carrier commits one or more of a specific set of safety violations that triggers an immediate compliance review. If this occurs, FMCSA plans to use the one safety investigator currently assigned to the border or another staff member assigned to the border who is also a trained investigator to conduct compliance reviews.

- The Act requires us to verify that inspectors conducting compliance reviews—the investigators—are not transferred from other parts of the United States, leaving those areas vulnerable. We have not seen transfers of any personnel in the hiring FMCSA has done to date, but we will continue to verify how the investigator positions are filled when FMCSA begins to bring investigators onboard in July.

FMCSA has not yet hired five border supervisors to oversee the activities of investigators, auditors, and inspectors, but will rely on existing crossing supervisors and FMCSA State directors to provide supervisory guidance until all five supervisory positions are filled and trained. FMCSA plans to fill all five supervisory positions by July 15, 2002. However, supervisors will be required to attend the 9-week investigator training if they have not already been trained as investigators. The first investigator class begins July 29, 2002, and ends September 27, 2002. *This area is the second exception where FMCSA's plans are not scheduled for completion in the next 60 days.*

- All four border States and FMCSA have signed agreements to provide inspection coverage during all hours the crossings are open to commercial

traffic from Mexico.² Schedules have been developed and will be implemented when the border opens.

Adequacy of Facilities. By June 30, 2002, facilities should be adequate for inspectors to enforce the Act's requirements at 23 of the 25 commercial border crossings. FMCSA plans to reach agreements to obtain inspection facilities for the remaining two, low-volume traffic crossings by June 30, 2002.

Until earlier this year, FMCSA had not attempted to procure its own facilities or seek improvements to space it had borrowed from the U.S. Customs Service on General Services Administration (GSA)-owned or leased facilities. As a result, FMCSA did not have dedicated space to inspect vehicles and place vehicles out of service.³ The space FMCSA had been occupying in many cases was not sufficient to support the level and quantity of inspections necessary to satisfy the Act's requirements, and to maintain sufficient coverage of commercial traffic entering the United States to operate in the commercial zones.

For example, in 2001, we found that at: 17 of the 25 crossings, Federal inspectors had space to inspect only 1 or 2 trucks at a time; 12 of the 25 crossings, Federal inspectors had only 1 or 2 spaces to park vehicles placed out of service and often the out-of-service space was the same as the inspection space; and 18 of the 25 crossings, Federal inspectors did not have dedicated telephone lines to access databases, such as those for validating CDLs.

This situation changed dramatically in 2002. At 11 crossings, accounting for 51 percent of total traffic, the out-of-service space will have increased by 100 percent or more. For example, at the Pharr, Texas crossing, which had the third highest volume of commercial traffic in 2001, inspectors had access to two inspection spaces and five out-of-service parking spaces. The new facilities will provide FMCSA with 4 inspection spaces and 15 out-of-service parking spaces, which is more than double the original space. The Attachment identifies the status of facilities at each of the commercial crossings along the U.S.-Mexico border.

The most significant improvements are at the high volume crossings where the lack of facilities has hindered the ability of inspectors to monitor and enforce

² Except at Sasabe, a low-volume crossing where, according to FMCSA, an agreement exists between the U.S. Customs Service and the State of Arizona to detain long-haul vehicles until an inspector can be called and the vehicle inspected.

³ Trucks are removed from service because of serious safety violations, including inoperative and defective brakes, defective frames and steering systems, and bad tires. Drivers are placed out of service for reasons that include: not having valid CDLs, not complying with hours-of-service rules, or not having logbooks to document the number of hours they were on duty.

safety regulations. The Act provided FMCSA \$2.3 million to procure and improve Federal inspection facilities. FMCSA has entered into agreements with GSA to obtain dedicated inspection and out-of-service space and to make necessary improvements. Improvements were needed at 19 of the 25 commercial border crossings and ongoing improvements have estimated completion dates by June 30, 2002. Existing facilities at four of the remaining six crossings are sufficiently adequate without improvements to enforce the Act's requirements, and the improvements needed at two low-volume California crossings—Tecate and Andrade—have not yet been determined. However, negotiations are underway to obtain inspection facilities at Tecate and Andrade, and FMCSA anticipates finalizing the plans by June 30, 2002.

The Act provided the four southern border States with a total of \$66 million for the construction of new or improvement of existing State border inspection facilities. The funds have been distributed as follows: California—\$8.9 million, Arizona—\$2.1 million, New Mexico—\$2.2 million, and Texas—\$52.8 million. The State facilities, when complete, will augment the Federal inspection facilities in the short term and may ultimately replace them.

Enforcing U.S. Safety Rules and Establishing Information System Capability. The focus of the verification requirements Congress established in this area were intended to ensure that inspectors would be prepared to enforce U.S. safety rules, such as hours-of-service, once the border opens to Mexican long-haul carriers. Also, the verification requirements were to ensure that inspectors have access to accurate, timely, and current driver, vehicle, and carrier information when they conduct safety inspections of Mexican long-haul carriers. FMCSA must also monitor the safety record of Mexican drivers and carriers operating in the United States in order to take appropriate action, such as revoking a Mexican driver's privileges or a Mexican carrier's authority to operate in the United States, when they violate U.S. safety rules.

- *Hours-of-Service Policy.* FMCSA issued a policy on April 3, 2002, to ensure Mexican carriers comply with U.S. hours-of-service rules. We cannot verify that the hours-of-service policy is implemented until Mexican long-haul carriers are granted authority to operate beyond the commercial zones. However, based on our observations of current practices for Mexican carriers operating in the commercial zones, we believe that inspectors will be prepared to implement the hours-of-service policy for Mexican long-haul carriers.
- *Access to Accurate Data.* We determined that Mexico's databases are sufficiently accurate to provide inspectors with information to verify the

status of a Mexican CDL and the validity of a Mexican vehicle's license plates. During our April 2002 visit to Mexico's Department of Transportation, we validated the accuracy of the information entered into the CDL and vehicle registration databases by reviewing and tracing automated records for CDLs and permits to source documents.

In addition to Mexico's databases on drivers and vehicles, inspectors need to access the U.S. Licensing and Insurance database to verify that a Mexican carrier has authority to operate in the United States and has valid insurance. To evaluate the accessibility of data to inspectors, we conducted tests at 25 border crossings to determine if they could access the Mexican databases to electronically verify CDLs and license plates and the U.S. database to electronically verify operating authority and insurance. We conducted the same tests with 17 mobile enforcement units operating adjacent to the border crossings in the four States.

We found that inspectors at 6 of the 25 commercial border crossings could not access Mexican and U.S. databases to verify information on Mexican carriers. At one of the six crossings the problem was that the inspector did not yet have a password to access the database. At 3 crossings, telephone lines or telecommunication links were not yet installed. FMCSA plans to remedy these problems by June 30, 2002. At the remaining two crossings, inspectors were not yet onboard and inspection facilities had not been secured. However, the issue will be addressed within the next 45 to 60 days when improvements will be made to the inspection facilities.

With the mobile enforcement units, we found that all could access information in the Mexican database on CDLs. However, only 1 of the 17 could access insurance and operating authority data, and none could access vehicle registration information (license tags). FMCSA has developed a plan to provide mobile enforcement units access to this information by June 30, 2002.

- *Mexican Driver and Carrier Monitoring Systems.* FMCSA will be using the following two separate systems to monitor the safety records of Mexican drivers and carriers:

Drivers. FMCSA has developed and implemented an automated system to monitor the performance of Mexican commercial *drivers* operating in the United States. The system provides FMCSA the capability to track, monitor and withdraw U.S. driving privileges of Mexican commercial drivers convicted of moving traffic violations in the United States. If U.S. driving privileges are withdrawn, a disqualified status will be

immediately reported to U.S. law enforcement officials when they check the license status of the driver.

Carriers. FMCSA developed an automated system and plans to have it operational by July 1, 2002 to extract safety violation data on Mexican *carriers* from its Motor Carrier Management Information System. To complete the system, FMCSA is developing an automated process for (1) identifying carriers requiring a compliance review or letter of corrective action; (2) generating corrective action letters to send to the carrier; (3) notifying the appropriate field office that a compliance review or corrective action is required; and (4) creating a carrier history of violations and corrective actions taken.

- ***Enforcing Operating Authority.*** In March 2000, FMCSA issued a rule requiring States to enforce operating authority requirements as a participating qualification under the Motor Carrier Safety Assistance Program. The States have until the end of FY 2003 to enact legislation.

Currently, only two States – Arizona and California – have enacted legislation authorizing their enforcement personnel to take action when they encounter a vehicle operating without authority. The other States' enforcement personnel do not enforce operating authority. However, enforcement personnel in all States are authorized to remove drivers and commercial vehicles from service for serious safety violations, such as operating without a valid commercial driver's license or operating a vehicle with defective brakes. Operating in the United States without valid operating authority is currently not considered a safety violation and hence with the exception of Arizona and California, State inspectors cannot enforce the violation.

In 1999, we reported that at least 52 Mexican-domiciled motor carriers operated improperly in 20 States beyond the 4 border States. Roadside inspection data throughout the United States show this has continued. To provide a mechanism to enforce operating authority in the absence of State laws, FMCSA issued a policy memorandum in November 2001, encouraging the States to contact FMCSA if State inspectors encountered a commercial vehicle operating without authority.

A principal concern in this area is not necessarily the long-haul carriers that will have authority to operate beyond the commercial zones and throughout the United States. These carriers' vehicles will be subjected to an inspection every 90 days, which will include verification of operating authority when performed by a U.S. inspector. Rather, the concern is that

carriers without authority to operate within the commercial zones or those that have authority only to operate within the zones will continue to operate *beyond* the zones. In these latter cases, the Act does not require periodic inspections and, other than California and Arizona, States do not have authority to put them out of service.

If Congress and the Department want to accelerate the ability of the States to enforce operating authority, there may be several ways to accomplish this. One option might be a Federal law conditioning States' receipt of Federal funding on the enactment of State laws to enforce operating authority. Another option is the Department could include operating authority violations among the safety criteria for placing vehicles out of service. States are already authorized to place vehicles out of service for safety violations, but operating authority is currently not considered a safety violation.

Madam Chairman , Mr. Chairman; this concludes my statement. I would be pleased to answer any questions.

Attachment

The following figure identifies the status of facilities at each crossing between June 17 and June 20, 2002. A “green light” indicates that new or existing space and/or facilities are consistent with identified needs. A “yellow/green light” indicates work is progressing steadily on improving or securing adequate space and facilities. We expect these will become “green lights” by June 30 when FMCSA projects that all improvements will be complete. A “yellow light” indicates that improvements have not yet been started. These facilities are not likely to be complete by June 30, but are likely to be complete within 60 days.

Status of Inspection Facilities and Vehicle Out-of-Service Rates by Commercial Crossing Between June 17 and June 20, 2002

BORDER CROSSING	FY01 Truck Traffic	Inspection Space	Out-of-Service Space	Office Space	Telecom Links	FY01 Vehicle Out-of-Service Rate (%)
Laredo-WTB, TX	1,072,445	●	●	●	●	44
Otay Mesa, CA	700,453	●	●	●	●	26
Pharr, TX	367,991	●	●	●	●	31
Laredo-Columbia, TX	346,720	●	●	●	●	38
El Paso-BOTA, TX	332,439	●	●	●	●	32
El Paso-Ysleta, TX	323,818	●	●	●	●	33
Calexico, CA	259,174	●	●	●	●	33
Nogales, AZ	251,474	●	●	●	●	36
Veterans Bridge, TX	199,135	●	●	●	●	35
Eagle Pass, TX	100,983	●	●	●	●	21
Tecate, CA	62,243	●	●	●	●	*
Del Rio, TX	59,286	●	●	●	●	23
Los Indios, TX	56,096	●	●	●	●	35
San Luis, AZ	39,908	●	●	●	●	24
Douglas, AZ	34,054	●	●	●	●	40
Santa Teresa, NM	30,612	●	●	●	●	24
Rio Grande City, TX	26,391	●	●	●	●	36
Progreso, TX	16,649	●	●	●	●	42
Roma, TX	11,806	●	●	●	●	48
Naco, AZ	9,976	●	●	●	●	29
Presidio, TX	7,562	●	●	●	●	*
Lukeville, AZ	4,271	●	●	●	●	*
Columbus, NM	4,239	●	●	●	●	29
Sasabe, AZ	2,215	●	●	●	●	*
Andrade, CA	1,727	●	●	●	●	*

* According to FMCSA’s Motor Carrier Management Information System, records of inspections performed did not specify whether the inspections were done at border crossings or within commercial zones adjacent to crossings. Therefore, a rate for the crossing could not be determined.