

**U.S. Department
of Transportation**

**Federal Motor Carrier
Safety Administration**

**UNITED STATES-MEXICO CROSS-BORDER LONG-HAUL
TRUCKING PILOT PROGRAM
REPORT TO CONGRESS**

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EXECUTIVE SUMMARY

The U.S. Department of Transportation (DOT or the Department) and the Federal Motor Carrier Safety Administration (FMCSA or the Agency) provide this report pursuant to 49 United States code (U.S.C.) 31315(c)(5), which requires the Secretary to report to Congress the findings, conclusions, and recommendations, including suggested amendments to laws and regulations, developed as the result of a pilot program conducted under this statutory provision. The FMCSA initiated the U.S.-Mexico Cross-Border Long-Haul Trucking Pilot Program (Pilot Program) to meet the requirement in section 6901 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. 110-28, 121 Stat. 112, 183 (Iraq Supplemental Appropriations Act). The Agency conducted a pilot program to assess the safety of granting authority to Mexico-domiciled motor carriers to operate beyond the commercial zones along the U.S.-Mexico border.

The Pilot Program was initiated on October 14, 2011, and concluded on October 10, 2014. The Pilot Program was designed and implemented to address the safety concerns posed by Congress and others, as the United States strives to meet its obligations under the North American Free Trade Agreement (NAFTA). The Secretary and his counterpart from the Government of Mexico established the reciprocal agreement necessary to implement the Pilot Program and to suspend the approximately \$2.4 billion annually in retaliatory tariffs imposed by Mexico on U.S. agricultural and manufacturing goods between 2009 and 2011.¹ The tariffs are permitted by a 2001 NAFTA Arbitration Panel decision, which found the United States in breach of its NAFTA cross-border trucking obligations, under both the Investment and Trade in Services chapters of NAFTA, for not lifting its moratorium on the granting of authority to Mexico-domiciled motor carriers to operate beyond the commercial zones along the U.S.-Mexico border.

As explained in FMCSA's April 2011 Federal Register notice, the Agency's analysis plan included the assessment of the safety performance of the Pilot Program as well as the large number of Mexican-owned or -domiciled Enterprise and Certificate motor carriers conducting long-haul operations beyond the commercial zones of the United States during the Pilot Program. The analysis of the Certificate and Enterprise carriers was conducted, in keeping with the Agency's analysis plan, to provide complementary safety information as they operate substantially the same as the Pilot Program carriers under a different oversight regimen. It is noted that during the Pilot Program period, 351 new Enterprise motor carriers received authority.

Evaluating driver out-of-service (OOS) rates, vehicle OOS rates, brake violations, hour of service (HOS) violations, driver fitness violations, and moving violations, along with safety ratings and acute and critical violations, the primary criteria used to measure the safety of motor carriers operating in the United States, the analysis finds evidence that Mexico-domiciled motor carriers operating beyond the commercial zones had safety records that were equal to or better than the national average for U.S. and Canadian motor carriers operating in the United States.

Based on the data available to FMCSA and the analysis below, in conjunction with data developed for comparison purposes of other Mexican motor carriers with long-haul operations,

¹ This included establishing the simultaneous and comparable authority for motor carriers domiciled in the United States to operate within Mexico, pursuant to NAFTA and Section 6901.

FMCSA concludes that the Pilot Program successfully demonstrated that Mexican motor carriers can and do operate throughout the United States at a safety level equivalent to U.S and Canada-domiciled motor carriers and consistent with the high safety standards that FMCSA imposes on all motor carriers authorized to operate in the United States.

As a result, FMCSA issued revised certificates of standard and provisional operating authority registration to the 13 carriers that were participating in the Pilot Program at its completion. This new authority allows them to continue long-haul operations in the United States. These carriers have complied with the Agency's regulatory requirements for issuance of provisional and/or standard operating authority under 49 Code of Federal Regulations (CFR) Part 365. These carriers will continue to be subject to safety monitoring and other requirements of 49 CFR Part 385, Subpart B, including the requirement that carriers with provisional authority undergo a compliance review and receive a satisfactory safety rating before standard authority is issued.

The DOT Office of the Inspector General (OIG) was required to conduct an audit of the Pilot Program within 60 days of the close of the program. The OIG report was submitted to the Department and U.S. Congress on December 10, 2014. The OIG report indicates that FMCSA adequately managed the Pilot Program. However, the OIG concluded that the Pilot Program data alone does not provide a representative sample to project overall safety performance. The OIG did not issue any recommendations to the Agency.

In addition, FMCSA formed a subcommittee of its Motor Carrier Safety Advisory Committee (MCSAC) to provide further oversight and monitoring of the program. The MCSAC similarly concluded that FMCSA met its oversight obligations in managing the Pilot Program. The MCSAC also expressed concerns about the data generated by the Pilot Program carriers.

However, based on the data collected and analyzed for the Pilot Program period, and in conjunction with data developed for comparison purposes of other Mexico-owned motor carriers conducting long-haul transportation, DOT has concluded that Mexico-domiciled motor carriers operate at safety levels consistent with the operations of U.S. and Canadian-domiciled motor carriers. Accordingly, the report recommends that no significant changes be made to the Federal Motor Carrier Safety Regulations at this time.

INTRODUCTION

The DOT and FMCSA provide this report pursuant to 49 U.S.C. 31315(c)(5), which requires that the Secretary report to Congress the findings, conclusions, and recommendations, including suggested amendments to laws and regulations, developed as a result of a pilot program conducted under this statutory provision. The FMCSA initiated the Pilot Program to meet the requirement in Section 6901 of the Iraq Supplemental Appropriations Act. The Department conducted the Pilot Program to assess the safety of granting authority to Mexico-domiciled motor carriers to operate beyond the commercial zones along the U.S.-Mexico border.

The Pilot Program was designed and implemented to address the safety concerns posed by Congress and other interested stakeholders, as the United States strives to meet its obligations under NAFTA. The Secretary and his counterpart from the Government of Mexico signed a

Memorandum of Understanding (MOU) ² to implement the Pilot Program and suspend approximately \$2.4 billion annually in retaliatory tariffs imposed by Mexico on U.S. agricultural and manufacturing goods between 2009 and 2011. (Appendix A) The tariffs are permitted by a 2001 NAFTA Arbitration Panel decision, which found the United States in breach of its NAFTA cross-border trucking obligations for not lifting its moratorium on the grant of authority to Mexico-domiciled motor carriers to operate beyond the commercial zones along the U.S.-Mexico border .

The Pilot Program was initiated on October 14, 2011, and concluded on October 10, 2014. This report uses information from the full 36 months to assess the safety performance of motor carriers approved to participate in the Pilot Program and the over 900 Mexican motor carriers that operated during this period with Certificate or Enterprise authority, including 351 Enterprise carriers that received authority during this 36 month period. The data demonstrates that Mexico-domiciled motor carriers operating beyond the commercial zones have safety records that are generally equal to or better than the national average for U.S. and Canadian motor carriers operating in the United States.

Accordingly, the report recommends that no significant changes be made to the Federal Motor Carrier Safety Regulations at this time.

BACKGROUND

Mexican Motor Carriers Transporting Property in the United States

Presently, Mexico-domiciled and Mexican-owned/U.S. domiciled motor carriers operate within the United States under a number of different authorities issued over the course of more than 30 years. The oldest type of active operating authority dates back to 1989, when the Interstate Commerce Commission (ICC) issued operating authority to for-hire Mexico-domiciled motor carriers to serve points throughout the United States.

Table 1: Types of Operating Authorities for Mexican Carriers Operating in the U.S.

Type of Authority	Number with Authority	Approximate Number Operating	Scope
Certificate	900	260	Carrier-specific
Enterprise	760	692	All of the United States
Commercial Zone	7,586	4,191	Commercial Zones at the U.S.-Mexico Border

² This included establishing the simultaneous and comparable authority for motor carriers domiciled in the United States to operate within Mexico, pursuant to NAFTA and Section 6901.

Each type of active operating authority is described below.

Certificate. In 1989, the ICC issued a final rule implementing changes as a result of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub.L. No. 100-690). The ICC interpreted this law as only limiting Mexico-domiciled motor carriers from transporting *non-exempt* commodities beyond the commercial zones (See Appendix B for definition). The ICC, therefore, began to issue certificates of registration allowing Mexico-domiciled motor carriers to transport *exempt* commodities beyond the commercial zones. Additionally, the ICC affirmed that under the 1988 Act, Mexico-domiciled *private* motor carriers could also be issued certificates of registration to operate beyond the commercial zones. (See Appendix B for definitions.) This group of Mexico-domiciled motor carriers transporting exempt commodities or operating as private motor carriers is referred to as “certificate” motor carriers. Approximately 900 Mexico-domiciled carriers currently hold this authority. However, fewer than 300 show evidence of recent operation. The certificates stated the limitations of the carrier’s specific authority. Some were limited to an individual State while others had authority to operate throughout the United States. FMCSA stopped issuing new certificates of registration in 2002 when the Agency promulgated regulations for registration of Mexico-domiciled motor carriers (see 49 CFR Part 365, Subpart E).

Enterprise. Under NAFTA and Presidential Orders (Appendix C), U.S.-domiciled motor carriers owned by “persons of Mexico” are allowed to obtain authority to operate beyond the border commercial zones. These “Enterprise” motor carriers, which have principal places of business throughout the United States, are granted authority to transport international cargo only. The majority of these carriers have sister companies in Mexico and operate between Mexico and the U.S. Currently, about 700 Enterprise motor carriers of property operate under this authority. Of these carriers, 351 received this authority during the Pilot Program period.

Commercial Zone. The largest number of Mexico-domiciled for-hire motor carriers operating in the United States transport international freight into, and operate solely within, the municipalities and commercial zones of those municipalities along the U.S.-Mexico border under authority transferred from the ICC to FMCSA. There are approximately 7,500 Mexico-domiciled motor carriers that have “commercial zone” registration, which allows them to travel up to approximately 20 miles into the United States (though only about 4,000 are currently operating). The international cargo on these vehicles is generally transferred to a U.S.-domiciled motor carrier for continued transportation within the United States beyond the commercial zones. This business model is referred to as “drayage.” These operations were originally permitted by the ICC, and the registration requirements are now codified in FMCSA’s regulations at 49 CFR Part 368.

Requirements of the North American Free Trade Agreement (NAFTA)

The United States must allow Mexico-domiciled motor carriers to conduct long-haul operations into the United States according to several articles in NAFTA. Article 305 on Temporary Admission of Goods, Chapter 11 on Investment, and Chapter 12 on Cross-Border Trade in Services cover the investment and access of motor carriers to each Party’s country from the other Party, including the concept of National Treatment and Most-Favored Nation (Appendix D). In the United States’ Annex 1 on non-conforming measures (also in Appendix D), the moratorium

on Mexico-domiciled motor carriers' operations in the United States was to be lifted incrementally until full access was provided by the year 2000.

On January 1, 1994, President Clinton modified the moratorium and the ICC began accepting applications from Mexico-domiciled passenger carriers to conduct international charter and tour bus operations in the United States. In December 1995, the ICC promulgated a rule and a revised application form for processing Mexico-domiciled property carrier applications. Under the ICC Termination Act of 1995, Congress authorized the President to remove or modify the moratorium upon the President's determination that such action is consistent with United States' obligations under a trade agreement or with United States transportation policy. On December 18, 1995, however, U.S. Secretary of Transportation Federico Peña announced an indefinite delay in implementing the NAFTA motor carrier access provisions.

Mexico filed a complaint against the United States under the NAFTA's dispute resolution provisions, challenging the United States' decision. The Arbitration Panel issued a final report in February 2001 concluding that there was a breach of the United States' NAFTA obligations under both the Investment and Trade in Services chapters of NAFTA. The Panel stated that it did not disagree that truck safety is a legitimate regulatory objective and that it was not limiting U.S. application of its truck safety standards to Mexico-domiciled carriers operating in the United States, provided that they were applied in a manner that is consistent with the United States' NAFTA obligations, but that the decision made by the United States in 1995 to indefinitely delay access was in breach. The Panel made an award recommendation to Mexico, permitting the use of retaliatory tariffs equal to the calculated damages for not permitting access to the United States by Mexico-domiciled motor carriers.

A detailed chronology of DOT's involvement in NAFTA implementation related to long-haul trucking is provided in Appendix E.

2007-2009 Demonstration Project Information

In April 2007, U.S. Secretary of Transportation Mary Peters and her Mexican counterpart signed a Memorandum of Cooperation to begin a demonstration project to assess the safety of Mexico-domiciled motor carriers operating in long-haul trucking in order to fulfill the United States' obligations under NAFTA. In September 2007, FMCSA began the demonstration project with the first Mexico-domiciled carrier inspections. The demonstration project included 28 motor carriers with 98 vehicles. During the course of the demonstration project, the participating motor carriers traveled predominantly within the southern Border States. This program lasted until March 2009 when, the Federal Government's Fiscal Year (FY) 2009 Omnibus Appropriations Act, Pub. L. No. 111-8, § 136, which included a provision prohibiting FMCSA from spending any additional funds on the NAFTA cross-border trucking demonstration project was passed by Congress and signed into law by President Obama on March 11th.

As required by the statute, FMCSA ended the demonstration project immediately. As a result of the early termination, FMCSA was unable to provide a complete analysis of the results or a report to Congress on the uncompleted program.

Although the U.S. demonstration project ended prematurely, the Government of Mexico continued to honor the long-haul operating authority issued to 10 U.S.-domiciled motor carriers that allowed them to operate in Mexico. Currently, three of these motor carriers still use this authority to travel into Mexico and two new companies have since received this authority. Information on all four companies is provided below.

CURRENT PILOT PROGRAM HISTORY

Statutes Affecting the Pilot Program

Since 2002, Congress has provided direction on the requirements of a cross-border long-haul trucking program for Mexico-domiciled motor carriers through its appropriations authority. Section 350, originally enacted in the FY 2002 Appropriations Act and continued in each succeeding appropriations bill, set the requirements for the Pre-Authorization Safety Audits (PASA), compliance reviews, license checks, Commercial Vehicle Safety Alliance (CVSA) decals and other program requirements (Appendix F). The FMCSA published two Interim Final Rules on March 19, 2002 (67 Fed. Reg. 12714), implementing the Section 350 requirements.

Section 6901 of the Iraq Supplemental Appropriations Act directed that DOT not open the borders to long-haul trucking until the granting of authority was first tested as part of a pilot program that complied with the requirements of Section 350 of the 2002 DOT Appropriations Act and that “simultaneous and comparable” authority be made available to U.S.-domiciled carriers to operate in Mexico. Section 6901 also prescribed reporting requirements for the DOT OIG (Appendix F).

Chronology

In response to the termination of the demonstration project, on March 19, 2009, Mexico announced its decision to impose retaliatory tariffs on the United States, as provided for under the 2001 NAFTA Arbitration Panel decision. The tariffs affected approximately 80 products being exported to Mexico at an estimated annual value of \$2.4 billion.

In August 2009, President Obama met with Mexico’s then-President Calderon at the North American Leaders Summit in Guadalajara, Mexico. President Obama expressed the Administration’s goal to address the safety concerns raised by Congress while fulfilling the United States’ NAFTA commitments. The FY 2010 Appropriations Act did not include a prohibition on the use of funds for the program. However, it continued the requirements of Section 350 of Pub. L. 107–87 and section 6901 of Pub. L. 110–28 for any new programs.

In Spring 2010, then U.S. Secretary of Transportation Ray LaHood met with his Mexican counterpart, Secretary Juan Molinar Horcasitas of the Secretaria de Comunicaciones y Transportes (SCT), and announced an agreement to establish a working group to consider the next steps in implementing a cross-border long-haul trucking program. In addition, DOT engaged with numerous stakeholders to define the concept for the new Pilot Program.

In January 2011, Secretary LaHood shared an initial concept document for a cross-border long-haul Mexican trucking Pilot Program with Congress and the Government of Mexico. The concept document prioritized safety, while satisfying the United States' international obligations under NAFTA. The FMCSA published the document on its website, which made the concept document available to the general public (Appendix G).

In March 2011, President Obama and President Calderon held a joint press conference and announced that a clear path forward had been found to resolve the NAFTA trucking issue and phase out Mexico's retaliatory tariffs. On April 13, 2011, FMCSA published a proposal for a cross-border, long-haul trucking Pilot Program in the Federal Register (Appendix H).

On July 6, 2011, Secretary LaHood signed the MOU with Secretary Molinar. Two days later, FMCSA published responses to comments in the Federal Register and announced its intent to proceed with the Pilot Program. Upon the publication of this notice, Mexico suspended half of the tariffs (Appendix H).

On October 14, 2011, the first Pilot Program applicant was granted authority and crossed the U.S.-Mexico border to transport international goods into the United States. Upon this grant of Pilot Program cross-border long-haul authority, Mexico suspended the remainder of the tariffs.

CURRENT PILOT PROGRAM REQUIREMENTS

The FMCSA designed the Pilot Program to test the effectiveness of its regulations governing the registration and monitoring of Mexico-domiciled motor carriers. The regulations were designed to ensure that the motor carriers participating in the Pilot Program had adequate safety management programs. The specific provisions of the Pilot Program were developed based on Congressional direction through statutes, lessons learned from the demonstration project, and consultations with the Government of Mexico, industry representatives, labor, and safety advocates.

The FMCSA implemented specific requirements to address the concerns articulated by Congress and others regarding the safety of Mexico-domiciled motor carrier operations. The requirements for participation in the Pilot Program included security vetting, safety vetting, the PASA, driver standards, vehicle standards, and extensive monitoring of drivers and vehicles operating in the United States.

Each applicant was required to complete the "Application to Register Mexican Carriers for Motor Carrier Authority to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border" (Form OP-1MX) and submit a "Motor Carrier Identification Report" (Form MCS-150) and "Designation of Process Agent" (Form BOC-3) confirming its process agent. The Agency reviewed the application materials for completeness before Agency staff reviewed the carriers for safety issues and conducted security background checks using the Department of Homeland Security's (DHS) database.

Security Vetting

The Agency coordinated with DHS so that applicant motor carriers and their drivers designated for cross-border long-haul operations in the Pilot Program were screened through DHS's databases. Motor carriers and/or drivers that failed DHS's security screening were not eligible to participate in the Pilot Program. Reasons a motor carrier or driver could fail the DHS security screening included: (1) providing false or incomplete information; (2) conviction of any criminal offense or pending criminal charges or outstanding warrants; (3) violation of any customs, immigration or agriculture regulations or laws; (4) the carrier or driver being the subject of an ongoing investigation by any Federal, State or local law enforcement agency; (5) the motor carrier or driver being inadmissible to the United States under immigration regulations, including applicants with approved waivers of inadmissibility or parole documentation; (6) DHS not being satisfied concerning the motor carrier's or driver's low-risk status; (7) DHS being unable to determine an applicant's criminal, residence or employment history; or (8) the motor carrier or driver being subject to National Security Entry-Exit Registration System or other special registration programs.

The Agency rejected applications from three carriers as a result of the DHS security review.

Preliminary Safety Vetting

The FMCSA also conducted its first phase of safety vetting simultaneously with the security screening. During this process, applicants with existing operations in the United States (i.e., Enterprise, Certificate, or Commercial Zone carriers) were reviewed using inspection data and safety and compliance information in the Agency's databases, including the Motor Carrier Management Information System (MCMIS), Licensing and Insurance (L&I), and Safety Measurement System (SMS) to identify any safety concerns. In some cases, the Agency conducted pre-authority compliance reviews on applicants with high SMS scores or a previous compliance history that identified safety concerns. The FMCSA rejected two applications as a result of the carriers receiving conditional ratings during pre-authority compliance reviews.

In addition, the applicants' information was entered into FMCSA's New Applicant Screening program to identify potentially affiliated motor carriers. This information was compared to the affiliations disclosed on the application. If the Agency found that an applicant had an affiliate that it did not identify on the application, staff discussed the discrepancy with the carrier. Several applicants amended their applications with additional information to explain the relationship. The FMCSA did not disqualify any applications for failure to list affiliations because the affiliations data fields on the Agency's applications are not currently required data fields on any FMCSA applications. However, FMCSA ensured that there was no evidence that carriers intentionally omitted information to hide a poor safety record or enforcement actions by reviewing the applicants' and the affiliates' safety records.

Agency staff checked to confirm that applicants with existing motor carrier operations in the United States did not have a conditional or unsatisfactory safety rating. One application was dismissed for this reason.

Pre-Authorization Safety Audits (PASA)

Each applicant that successfully completed the security vetting and preliminary safety vetting was subjected to a PASA. The PASA is a review of the carrier's safety management systems, including written procedures and records to validate the accuracy of the information and certifications provided in the application conducted by FMCSA staff. The PASA allows the Agency to determine whether the carrier has established and exercises the basic safety management controls necessary to ensure safe operations.

During the PASA process, the vehicles that were specifically designated for cross-border long-haul operations in the United States were inspected. If the vehicle passed the inspection, the inspector affixed a CVSA decal to the vehicle.

The FMCSA posted a copy of each PASA to its website and published a notice of the PASA results in the Federal Register. The Agency received comments on the Federal Register notices for each motor carrier. For letters expressing concerns about the applicants, FMCSA provided written responses. Copies of the letters and responses were placed in the docket for the Pilot Program (Docket No. FMCSA-2011-0097).

Drivers

Applicant motor carriers designated drivers who would perform cross-border long-haul operations in the Pilot Program. The FMCSA verified driver qualifications, including confirming the validity of the driver's Licencia Federal de Conductor (LFC) and reviewed U.S. and Mexican Federal license histories for traffic violations that would disqualify the driver from operations in the United States. Because a review of third-party LFC testing facilities conducted by FMCSA in 2011 revealed some deficiencies, FMCSA confirmed through SCT that each driver was tested at an SCT testing facility, rather than at a third party facility (Appendix H).

Additionally, FMCSA staff assessed the proposed drivers' English language proficiency (i.e., ability to read and speak the English language sufficiently to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records required by FMCSA). The Agency deemed many proposed drivers ineligible due to their inability to communicate sufficiently in English.

Emission Control Label

The Agency required that all diesel-powered vehicles used in the Pilot Program have an emission control label, as described in 40 CFR 86.007-35, that indicated that the engines conformed to the U.S. Environmental Protection Agency (EPA) regulations applicable to vehicles manufactured on or after 1998. Alternatively, the motor carrier was allowed to present documentation from the engine manufacturer indicating that the engine conformed to the applicable EPA regulations.

Federal Motor Vehicle Safety Standards (FMVSS)

Commercial motor vehicles operating in the United States under the Pilot Program had to display a FMVSS certification label or Canadian Motor Vehicle Safety Standard (CMVSS) certification

label affixed by the original vehicle manufacturer at the time the vehicle was built. Alternatively, a motor carrier could use a vehicle manufactured for use in Mexico that did not possess an FMVSS or CMVSS label, if the vehicle was of model year 1996 or newer and equipped with the safety equipment and features required by the FMVSS in effect on the date of manufacture, such as automatic slack adjusters and antilock braking systems.³

Commercial Vehicle Safety Alliance (CVSA) Safety Decals

Participating Pilot Program motor carriers were required to maintain a current CVSA inspection decal on all vehicles approved for the Pilot Program while operating under the Provisional Operating Authority and for three consecutive years after receiving Permanent or Standard Operating Authority.

FMCSA Register

Once an applicant passed the security vetting, safety vetting, and PASA, FMCSA published a notice of the intent to issue operating authority in the FMCSA Register, the Agency's website that announces pending applications for operating authority. Interested parties could submit a protest pursuant to 49 CFR Part 365, if they had information to demonstrate that the applicant carrier was not fit, willing, or able to comply with the Agency's safety regulations. This process applies to all applicants of operating authority, including U.S carriers, not just Pilot Program applicants.

The FMCSA received five protests following the FMCSA Register publications. In all cases, the Agency dismissed the protests because the protesters did not provide sufficient information to demonstrate that the applicants were unable to comply with applicable requirements.

Liability Insurance and Process Agents

Mexico-domiciled motor carriers participating in the Pilot Program were required to maintain a certificate of insurance or surety bond underwritten by a U.S. company on file with FMCSA, as prescribed in 49 CFR section 387.313.

The carriers were also required to designate process agents to represent them in the United States.

Issuance of Operating Authority

Generally, carriers that passed the PASA received a certificate of registration that granted provisional operating authority for transportation beyond U.S. municipalities and commercial zones on the United States-Mexico border. One motor carrier that had participated in the prior demonstration project, and successfully completed the provisional authority period under that program with a Satisfactory safety fitness rating, received Pilot Program permanent authority.

³ See *Int'l Bhd. of Teamsters v. U.S. Dep't of Trans.*, 724 F.3d 206, 215 (D.C. Cir. 2013)

Both the Pilot Program Provisional and Permanent certificates of registration stated that the motor carriers were prohibited from: (1) point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo; (2) transportation of hazardous materials, as defined in 49 CFR section 171.8, in any amount required to be placarded, in accordance with 49 CFR part 172, in the United States; (3) transportation of passengers in the United States; (4) transportation in vehicles or with drivers not approved by FMCSA for participation in the U.S.-Mexico Cross-Border Long-Haul Trucking Pilot Program; (5) transportation of oversized or overweight goods; (6) transportation of industrial cranes and vehicle towing (including towing from crash scenes or “rescues”); (7) transportation by packaging and courier services; and (8) operating a vehicle without an operational DOT electronic monitoring device.

The registration certificates further explained that transportation violating any of these restrictions is equivalent to operating beyond the scope of the operating authority and a violation of the terms of the operating authority registration. Such violations could result in vehicles being ordered out of service and suspension or revocation of the Pilot Program Provisional or Permanent Motor Carrier Certificate of Registration.

Under the terms of the provisional certificate, a carrier’s provisional operating authority would be suspended or revoked if the carrier failed to receive a Satisfactory safety fitness rating during the 18-month safety monitoring period. Carriers with provisional certificates of registration were also subject to expedited action for violations described in the Agency’s Safety Monitoring System for Mexico-Domiciled Carriers in 49 CFR Part 385, Subpart B. The FMCSA brought an expedited action under 49 CFR Section 385.105 against one carrier. That carrier submitted a written response, as allowed by FMCSA regulations, demonstrating corrective action and was able to maintain its provisional operating authority.

MONITORING OF PILOT PROGRAM CARRIERS AND DRIVERS

Electronic Monitoring Devices

The FMCSA contracted with Teletrac, Inc., (a tracking and fleet automation provider headquartered in southern California) to provide the electronic monitoring devices with a global positioning system (GPS). The equipment identified individual Pilot Program drivers and non-Pilot Program drivers who operated the vehicles in the commercial zones. Geo-fences were established to provide alerts to FMCSA staff of the arrival of approved vehicles, during Stage 1 at the Ports of Entry (POEs) into the United States. The three-year cost for the contract was less than \$200,000.

Additionally, the Teletrac equipment allowed FMCSA to monitor the motor carriers’ trips and identify potential hours of service (HOS) and cabotage violations. These incidents were then investigated by FMCSA staff to determine whether such violations had occurred. There were no enforcement cases for cabotage during the Pilot Program. The Agency also used the data recorded by the equipment to compile mileage and destination information that were published on the Agency’s Pilot Program website at <http://www.fmcsa.dot.gov/international-programs/mexico-cross-border-trucking-pilot-program>.

The Agency also put in place requirements for the participating motor carriers to use HOS logs to keep a record of duty status when equipment or service problems occurred.

Three Stages

The level of monitoring and oversight of the carriers and drivers participating in the Pilot Program varied depending on the experience and safety record of the carrier. Stage 1 of the program required the motor carrier's participating trucks and drivers to be inspected every time a vehicle crossed the border northbound. A carrier progressed to Stage 2 in the Pilot Program after 3 months of monitoring and at least three inspections, if the carrier's OOS rates were at or below the U.S. national averages and its SMS scores for trucks and drivers operating in the Pilot Program were below FMCSA's levels for intervention. After the motor carrier successfully completed a compliance review with a Satisfactory rating and completed 18 months of operations with provisional operating authority, the motor carrier was granted permanent operating authority under the Pilot Program (Stage 3).

Once a motor carrier was in Stages 2 and 3, inspections at the border crossings were conducted randomly at a rate similar to that of non-Pilot Program Mexico-domiciled motor carriers that routinely cross the U.S.-Mexico border.

As explained in the April and July 2011 Federal Register notices and as provided for in the MOU with the Government of Mexico, FMCSA gave credit in calculating the 18-month provisional operating authority period to motor carriers that had successfully participated in the previous demonstration project. As a result, motor carriers that had experience under the demonstration project did not necessarily start in Stage 1 of the Pilot Program monitoring. Six motor carriers began operations in Stage 2 and one motor carrier began in Stage 3.

TRANSPARENCY AND OVERSIGHT

Website

Throughout the Pilot Program, FMCSA maintained a robust website that displayed current information about the participating carriers' operations and status in the Pilot Program, including the following information for each Pilot Program participant:

- PASA results
- Status of application
- Number of inspections
- Number of crossings
- Number of drivers and status
- Number of vehicles
- Number of reportable crashes
- Insurance status
- Compliance review dates and ratings

The website also included information for each weekly reporting period on identified potential HOS or cabotage violations. The FMCSA investigated these instances and then updated the publicly-available reports to reflect the results.

The website also contained:

- Aggregate Number of Southern Border States Miles Traveled
- Aggregate Number of Non-Border States Miles Traveled
- Number of Crossings per POE
- PASA location (United States or Mexico)

Additional pages on the website provided the Federal Register notices related to the Pilot Program, information on the demonstration project motor carriers participating in the Pilot Program, educational and training materials, advisories for State and local law enforcement, and visor cards.

This website is still available at: <http://www.fmcsa.dot.gov/intl-programs/trucking/trucking-program.aspx>.

Motor Carrier Safety Advisory Committee (MCSAC)

The FMCSA formed a subcommittee of its MCSAC to provide further oversight and monitoring of the program. This independent monitoring group reviewed the implementation of the Pilot Program. The FMCSA provided updates on the status of the Pilot Program to this group five times during the program.

The MCSAC was tasked with forming a subcommittee to serve as the monitoring Federal advisory committee for the program. Specifically, FMCSA requested that the MCSAC: form a subcommittee with specific participation; invite the Director General of the Direccion General de Autotransporte Federal of Mexico to participate in meetings in a non-voting capacity; assess the safety record of the participants; advise FMCSA concerning the program; and issue a final report addressing whether FMCSA conducted the Pilot Program consistent with the Federal Register notices.

The MCSAC submitted a letter to the FMCSA Acting Administrator on November 10, 2014. (Appendix I) In the letter, MCSAC indicates that FMCSA achieved the objectives outlined in the April 2011 and subsequent Federal Register notices, with a few exceptions such as the Agency's inability to get State driving records for Mexican drivers, and expressed concerns about "form and manner" violations on the electronic monitoring devices. However, MCSAC did question if the quantity and quality of the data collected from carriers that participated in the Pilot Program was sufficient to draw an appropriate conclusion about the Pilot Program.

U.S.-Mexico Working Group

The April 2011 Federal Register notice acknowledged the agreement between the Department and SCT to establish a joint monitoring group that would supervise implementation of the Pilot Program and find solutions to issues affecting the operational performance of the participating

motor carriers. The group, composed of DOT and SCT employees, met monthly by telephone and discussed participating Pilot Program carriers, new applications, and any issues that needed the attention of either country.

Office of the Inspector General (OIG) Audits

As required by Section 6901 of the Iraq Supplemental Appropriations Act, the OIG completed an audit of the Pilot Program after six months of operations. This report, released on August 16, 2012, and titled, "Increased Participation and Improved Oversight Mechanisms Would Benefit the NAFTA Pilot Program," recommended that FMCSA do the following:

1. Revise FMCSA's traffic and road sign testing policy and procedures to require English responses to questions about traffic and road signs, in accordance with the Federal Register requirements to require testing of all 21 traffic and road signs used for the PASA test. In addition, the OIG recommended that FMCSA add a height clearance road sign to the traffic and road sign test. The OIG further recommended that FMCSA provide training and guidance on traffic and road sign testing to all enforcement officials.

FMCSA Response: The Agency concurred with these recommendations and implemented the changes.

2. Revise FMCSA's quality assurance procedures for PASAs to ensure that field supervisors and new entrant specialists validate the Agency's verification of the SCT-tested drivers and ensure the accuracy of drug and alcohol statistical summary reports and the accuracy of random drug and alcohol testing pools before approving PASAs.

FMCSA Response: The FMCSA did not concur on this recommendation because the coordination with SCT is done at headquarters, not in the field. In addition, the errors the OIG observed on a drug and alcohol report in a PASA proved to be isolated events.

3. Revise FMCSA's Pilot Program monitoring plan to include proactive controls such as periodic checks of electronic monitoring data quality and reporting accuracy.

FMCSA Response: The FMCSA did not concur with this recommendation because it did not agree that revisions were needed. The Agency monitoring program included weekly review of all transportation within the U.S. by Pilot Program drivers and vehicles for potential HOS and cabotage violations.

4. When appropriate program participation warrants, complete the development of mechanisms for detecting cabotage violations as called for in the electronic monitoring contract.

FMCSA Response: The Agency agreed to automate reports if the volume of carriers made this cost-effective for the program.

The OIG acknowledged that FMCSA demonstrated a willingness to address issues it raised during the audit and in the response to the draft report. As a result, the OIG considered FMCSA's actions on recommendations 2 and 3 to be sufficient at the time of the report.

As required by the Iraq Supplemental Act, the OIG was also required to complete an audit of the Pilot Program within 60 days of its conclusion. This OIG audit report was submitted to the Department and U.S. Congress on December 10, 2014, and included the Agency's response (Appendix J). The report documented that FMCSA implemented adequate monitoring and enforcement. The OIG report noted that although security concerns existed for FMCSA personnel, the agency substantially complied with the Section 350 requirements.

The OIG also noted that FMCSA established a sufficient mechanism to determine the Pilot Program participants' impact on safety. The OIG confirmed FMCSA's findings and conclusions regarding Pilot Program carriers' safety performance.

However, the OIG report indicated that the Pilot Program lacked an adequate and representative sample to make confident projections regarding long-haul operations by Mexico-domiciled motor carriers. Based on their statistical analysis, which was statutorily limited to the Pilot Program carriers, the OIG concluded that the participation of 15 carriers, in relation to the 37 applicants, was not adequate to confidently project safety performance for an unknown future population. FMCSA's April 13, 2011, Pilot Program proposal estimated that 46 participant carriers would be needed to achieve the target of 4,100 inspections within 3 years based upon long-haul border crossing assumptions. At the time, FMCSA also stated that if participating carriers performed more crossings per week or enrolled more vehicles, then fewer carriers would be needed for the program. Indeed, the 15 participating carriers did surpass FMCSA's initial target of 4,100 inspections. Nevertheless, the OIG did not believe that the number of Pilot Program participants nor the number of Pilot Program non-participating applicants was large enough to conduct reliable statistical tests regarding the representativeness of the sample.

The OIG did not issue any recommendations to the Agency in this final audit report.

LITIGATION HISTORY OF THE PILOT PROGRAM

On July 6, 2011, the Owner-Operator Independent Drivers Association (OOIDA) filed a petition for review in the U.S. Court of Appeals for the District of Columbia challenging FMCSA's decision to proceed with the Pilot Program.⁴ On September 6, 2011, the International Brotherhood of Teamsters (IBT) and Public Citizen filed a second petition challenging the Pilot Program in the Ninth Circuit Court of Appeals. The Ninth Circuit transferred the IBT/Public Citizen petition to the D.C. Circuit where the two cases, *OOIDA, et al., v. USDOT, et al.* (D.C. Cir. No. 11-1251.) and *IBT, et al. v. USDOT., et al.*, (D.C. Cir. No. 11-72606) were scheduled for argument on the same day before the same panel, but were not otherwise consolidated. In addition to the briefs filed by the parties, the Government of Mexico and the California Agricultural Issues Forum filed *amicus curiae* briefs supporting the Pilot Program.

The combined petitions raised 13 distinct issues. The petitioners generally asserted that the Pilot Program was not designed to achieve an equivalent level of safety because the program

⁴ OOIDA's petition was filed in response to an early release of the Federal Register Notice on FMCSA's public website that occurred two days before the July 8 publication of the Federal Register Notice announcing FMCSA's intent to proceed with a pilot program.

impermissibly allowed Mexican trucks and drivers to comply with Mexican rather than U.S. laws. IBT and Public Citizen argued that the decision to proceed with the Pilot Program was arbitrary and capricious based on alleged shortcomings of the Pilot Program. IBT also alleged deficiencies in the FMCSA's environmental review of the Pilot Program.

In an opinion holding for the Agency on all 13 issues, the D.C. Circuit Court of Appeals found none of the petitioners' arguments to be persuasive. The court denied the petitions for review and upheld the legal sufficiency of the Pilot Program. *See IBT, et al. v. USDOT, et al., OOIDA v. USDOT, et al.*, 724 F.3d 206 (D.C. Cir. 2013), *reh'g denied*, 2013 U.S. App. LEXIS 15209 (D.C. Cir. 2013). The D.C. Circuit denied petitions for reconsideration and rehearing *en banc* filed by both petitioners. On January 13, 2014, the U.S. Supreme Court denied OOIDA's petition for certiorari in this case. (*See* 2014 U.S. LEXIS 261 (2014) (No. 13-532)). A copy of the D.C. Circuit's decision is attached in Appendix K.

In its unanimous affirmation of the Pilot Program, the court made three pronouncements of particular importance to the program. First, in responding to a claim that the Pilot Program allowed Mexico-domiciled carriers to avoid compliance with U.S. laws, the court held that the program "does not substitute compliance with Mexican law for compliance with U.S. law." 724 F.3d at 214. Second, in responding to arguments that elements of the Pilot Program were not designed to achieve the existing level of safety, the court held that the Agency "reasonably concluded that [the challenged requirements] were designed to achieve an equivalent level of safety" *Id.* and that other challenged requirements "would provide a level of safety at least equivalent to the American standards taken as a whole." 724 F.3d at 216.⁵ Finally, in responding to the challenge that the Pilot Program did not include a reasonable number of participants necessary to yield statistically valid findings, the court held that the Agency could not control whether Mexico-domiciled trucking companies would ultimately avail themselves of the opportunity to participate in the Pilot Program and that the Agency has thus "met its obligation to include a sufficient number of participants so as to yield valid results." *Id.*

PILOT PROGRAM DATA

During the Pilot Program, 15 Mexico-domiciled motor carriers were approved and operated. Of the 13 still participating at the end of the program, nine Mexico-domiciled motor carriers had permanent certificates of registration and four had provisional certificates. These participating motor carriers operated 55 vehicles with 53 drivers at the conclusion of the Pilot Program.⁶ One carrier withdrew from the Pilot Program and another was dismissed due to a conditional safety rating. However, the crossings and inspections for those two motor carriers are included in the data analysis for the Pilot Program.

While the Agency had hoped for more motor carriers in the Pilot Program, the limited participation was not completely unexpected, as the Mexican trucking industry has adapted to their business model to be less reliant on the long-haul market given the current operating

⁵ The court referenced the Agency's acceptance of Mexican medical standards, "some of which are more stringent than U.S. physical qualification standards." *Id.*

⁶ Through October 10, 2014.

environment. Additionally, the costs for participating in the program and establishing new business lines are significant, especially for a Pilot Program of limited duration.

A total of 28,225 border crossings by Pilot Program participating carriers had occurred as of October 10, 2014. Table 2 shows the distribution of crossings by carrier.

Table 2: Distribution of Vehicles, Drivers and Crossings by Carrier on October 10, 2014

Carrier Name	Number of Vehicles	Number of Drivers	Number of Crossings
Transportes Olympic	5	5	352
Moises Alvarez Perez	1	1	8
Baja Express Transportes SA de CV (voluntarily withdrew)*	0	0	250
Transportes Del Valle de Guadalupe SA de CV	1	1	497
Servicios Refrigerados Internacionales SA de CV	1	3	168
Higienicos Y Desechables del Bajio SA de CV	1	1	9
Jose Guadalupe Morales Guevara	1	3	209
Grupo Behr	1	3	576
Servicio de Transporte Internacional Y Local	30	16	20,102
Ram Trucking	1	1	5
GCC Transporte SA de CV	4	5	5,528
Sergio Tristan Maldonado (Operating Authority revoked)*	0	0	60
Transportation and Cargo Solutions	6	7	6
Transportes Monteblanco	2	6	390
Importaciones y Distribuciones Latina America Gami SA de CV	1	1	65
Total Number of Crossings	55	53	28,225

* Carriers were not operating as of October 10, 2014. Therefore, no drivers and vehicles are listed. However, they did have previous crossings and inspections.

Table 3: Distribution of Crossings by Location as of October 10, 2014

Crossings Locations	
Calexico, CA	4
Oro Grande, CA	1
Otay Mesa, CA	21,384
Tecate, CA	496
Santa Teresa, NM	2,053
Colombia, TX	62
Eagle Pass, TX	34
Laredo World Trade Bridge, TX	711
Ysleta, TX	3,480
Total Crossings	28,225

During the crossings, a total of 5,545 inspections occurred on vehicles approved for the Pilot Program; this included inspections of approved vehicles by non-Pilot Program drivers operating within the commercial zones.⁷ The distribution of inspections by carrier is shown in Table 4.

⁷ Through October 10, 2014.

Table 4: Distribution of Inspections by Carrier through October 10, 2014

Carrier Name	Total Number of Inspections	Stage Entering Program	Stage 2 and 3 Inspections⁸
Transportes Olympic	287	3	287
Moises Alvarez Perez	8	2	8
Baja Express Transportes SA de CV	55	1	24
Transportes Del Valle de Guadalupe SA de CV	107	1	47
Servicios Refrigerados Internacionales SA de CV	36	2	36
Higienicos Y Desechables del Bajio SA De CV	8	2	8
Jose Guadalupe Morales Guevara	58	1	38
Grupo Behr	61	2	61
Servicio de Transporte Internacional y Local	3,080	1	907
Ram Trucking	4	1	1
GCC Transporte SA de CV	1,393	2	1,393
Sergio Tristan Maldonado	34	1	9
Transportation and Cargo Solutions	4	1	1
Transportes Monteblanco	353	2	353
Importaciones y Distribuciones Latina America Gami SA de CV	57	1	14
Total Number of Inspections	5,545		3,187

The Teletrac equipment recorded that participating motor carriers traveled 1,519,022 miles in the approved vehicles. This includes 1,263,630 miles traveled in the Border States and 255,392 miles in other States.⁹ During the Pilot Program, only one reportable crash occurred involving an approved vehicle and approved driver. Per the crash report from the San Diego Police Department, the traffic collision occurred when a motorist in a passenger vehicle drove in front of the commercial vehicle in a private driveway. The motorist was operating a passenger vehicle and sustained an injury.

U.S.-DOMICILED PROGRAM PARTICIPANTS

In accordance with the MOU that established the Pilot Program, the Government of Mexico permits United States domiciled motor carriers to engage in cross-border long-haul operations upon receiving authority from the Mexican Government (see Appendix A). The SCT established

⁸ Only Stage 2 and 3 inspections were used in the Agency's data analysis because the carriers were not inspected every time they crossed the border.

⁹ Through October 10, 2014.

an English language webpage where interested U.S.-domiciled motor carriers can obtain information on how to apply for cross-border long-haul authorization. The five carriers that are operating in Mexico are listed below in Table 5.

Table 5: U.S. Carriers Operating in Mexico through October 10, 2014

Motor Carrier Name	Number of Drivers	Number of Vehicles	Number of Crossings
Stagecoach Cartage & Distribution	13	10	4,158
Plastic Express	19	20	2,498
A&R Transport	9	38	4,206
Springs Window Fashions ¹⁰	1	1	0
TVS Trucking ¹¹	2	4	0
Total	44	73	10,862

DATA ANALYSIS

In keeping with the Agency’s April 2011 Federal Register notice, FMCSA’s analysis plan uses information from October 14, 2011, through October 10, 2014, to assess the safety performance of motor carriers approved to participate and the over 900 Certificate and Enterprise carriers already approved to operate in long-haul transportation beyond the commercial zones. This includes 351 Enterprise carriers that received authority to operate during this 36-month period.

Table 6 below summarizes the various categories of safety measures used in this analysis. In accordance with the objectives of a pilot program, this analysis set out to determine whether the carriers enrolled in the U.S.-Mexico Cross Border Long-Haul Trucking Pilot Program have been operating in the United States without compromising U.S. highway safety. Such a conclusion can be made if the analysis indicates that vehicles and drivers belonging to program participants appear no less safe than U.S. and Canadian vehicles and drivers currently operating in this country. In those instances where a safety measure may indicate that carriers enrolled in the Pilot Program or other Mexican carriers are not operating as safely as their U.S. counterparts, statistical significance testing is used (when sample sizes allow) to corroborate such findings.

¹⁰ Spring Window Fashions received its authority in August 2014.

¹¹ TVS Trucking received its authority October 2014.

Table 6: Definitions for Various Measures Used to Assess Mexican Motor Carrier Safety

Safety Measures	Definition
Driver OOS Rate	Percentage of total driver-related inspections resulting in the driver being placed OOS until specific driver-related violations are corrected.
Vehicle OOS Rate	Percentage of total vehicle-related inspections resulting in the vehicle being placed OOS until specific vehicle-related violations are corrected.
Brake Violation Rate	The number of brake-related violations per 100 inspections.
HOS Violation Rate	The number of HOS-related violations per 100 inspections.
Driver Fitness Violation Rate	The number of driver fitness-related violations per 100 inspections (based on any violation included in the Driver Fitness BASIC SMS* score defined below in the footnote)
Moving Violations Rate	Total number of moving violations received by the carriers divided by the total number of power units operated by the carriers.
Crash Rate	Crashes per vehicle miles of travel
Safety Rating	A rating given to the motor carrier by FMCSA after performing a comprehensive investigation or compliance review. The safety rating places the motor carrier in one of three categories: Satisfactory, Conditional, or Unsatisfactory.
Acute and Critical Violations	Motor carrier violations found during an Agency investigation of a motor carrier’s operations. Acute violations require immediate corrective action. A critical violation is considered less severe than an acute violation and is considered an indication of poor safety management.

**The SMS is an FMCSA scoring system that ranks the relative performance of motor carriers in the following six categories, known as Behavior Analysis and Safety Improvement Categories (BASICS), as well as crash involvement: unsafe driving, hours-of-service compliance, driver fitness, controlled substance and alcohol use, vehicle maintenance, and hazardous materials compliance. The Driver Fitness BASIC measures the operation of vehicles by drivers who are unfit to drive them due to lack of training, license status, or medical qualification issues.*

Pre-Authorization Safety Audits (PASA)

All Pilot Program motor carriers were required to pass a PASA as a condition for participation. During the assessment period, 19 carriers received a PASA and 3 failed. As a result, the pass rate for the PASA was 84 percent. Of the 16 carriers that passed, 15 carriers ultimately received operating authority from FMCSA (although one carrier subsequently had its operating authority revoked, one carrier subsequently withdrew from the program, and one carrier did not accumulate any Pilot Program mileage during the assessment period). Of the three carriers that failed the PASA, none was granted operating authority.

Roadside Inspection Data

Table 7 below presents roadside violation and out-of-service (OOS) rates for Pilot Program carriers, Certificate carriers, and Enterprise carriers for the 36 months of the Pilot Program. For the Pilot Program carriers, the data presented in the table are based on inspections occurring during Stages 2 and 3, when the carriers’ trucks were selected for inspection at the roadside

based on FMCSA's usual practice, and not necessarily every time they cross the border. Stage 1 inspections are not included in the analysis because during Stage 1, the carriers' trucks are inspected each time they cross the border.

If additional Mexican carriers are granted long-haul operating authority in the United States their trucks will not necessarily be inspected every time they cross the border. Thus, by excluding the Stage 1 inspections, the inspection data used in the Pilot Program analysis better reflects the expected Mexican carrier safety performance. Because only Stage-2 and 3 inspections are used in this analysis, the total number of driver and vehicle inspections performed on Pilot Program carrier trucks and drivers shown in Table 7 is not consistent with the total number of driver and vehicle inspections shown on FMCSA's U.S.-Mexico Cross-Border Trucking Pilot Program website (<http://www.fmcsa.dot.gov/international-programs/mexico-cross-border-trucking-pilot-program>) for these same carriers.

The inspections used in this analysis were conducted by Commercial Vehicle Safety Alliance (CVSA) certified inspectors following the North American standards. Table 7 shows that Pilot Program carriers were inspected during the 36-month assessment period at a rate of 53.3 inspections per power unit¹², for power units approved for participation in the Pilot Program. This compares to an inspection rate of less than 1.8 inspections per power unit for all U.S. and Canadian Carriers during this same period¹³. Certificate and Enterprise carriers were also inspected at a much higher frequency than other carriers: approximately 21.4 inspections per power unit for Certificate carriers, and 25.2 inspections per power unit for Enterprise carriers during the same 36-month period. These differences are the result of the inspection protocols and Federal and State enforcement resources that exist for northbound traffic at the ports of entry into the United States from Mexico.

Statistics on roadside violation rates for the Pilot Program, Certificate, and Enterprise carriers in Table 7 are compared to similar statistics for all U.S. and Canadian carriers and to statistics for private and exempt-for-hire U.S. and Canadian carriers. This latter comparison group is used for Certificate carriers because Certificate carriers must be either private or exempt-for-hire.

Because roadway and weather conditions, as well as vehicle selection protocols, may vary from state to state, and because nearly all of the roadside inspections performed on Mexican carriers during the assessment period occurred in the four Border States (CA, AZ, NM, and TX), the OOS and violations rates for all U.S. and Canadian carriers (last two columns in Table 7) are presented both for inspections conducted in all U.S. states combined, as well as for inspections conducted in the four Border States only. When comparing a particular statistic for a Mexican carrier group to the same statistic for U.S. and Canadian carriers, this report focuses sometimes on the U.S. and Canadian carrier statistics derived from the four Border States.

Compared to all U.S. and Canadian carriers, Pilot Program carriers have lower driver and vehicle OOS rates, as well as lower violation rates (violations per 100 inspections) for the following

¹² A power unit is a single-unit (straight) truck or the tractor portion of a tractor-trailer combination.

¹³ For the purposes of quality control, these calculations only considered carriers whose registration data in MCMIS indicated a ratio of total power units to total drivers less than or equal to 5, and had at least one inspection or crash during the assessment period.

violations: driver fitness violations, HOS violations, and brake violations. This relationship holds both when comparing MX Pilot Program carrier inspection data to all U.S. and Canadian carrier inspection data and when comparing MX Pilot Program carrier inspection data to U.S. and Canadian carrier inspection data from the four Border States.

Certificate and Enterprise carriers have lower driver and vehicle OOS rates when compared to U.S. and Canadian carriers, as well as similar or lower driver fitness and HOS violations rates. This relationship holds both when comparing these carriers' inspection data to all U.S. and Canadian carrier inspection data and when comparing their data to U.S. and Canadian carrier data from the four Border States.

Certificate and Enterprise carriers have higher brake violation rates when compared to their respective comparison groups of all U.S. and Canadian carriers and U.S. and Canadian private and exempt carriers, respectively, both nationwide and in the four Border States. Although these differences are statistically significant at the 95% confidence level, they appear to result from the fact that a larger fraction of the Certificate and Enterprise carrier inspections are Level 1 inspections relative to their comparison groups. When only considering the Level 1 inspections, the U.S. and Canadian motor carriers have a higher brake violation rate than all three types of Mexican carriers. (see Table 8).

In addition to the brake violation rates, Table 7 indicates that the driver fitness violation rate is slightly higher for Enterprise carriers when compared to the driver fitness violation rate of its comparison group (all U.S. and Canadian carriers) within the four Border States only. Although this disparity is also statistically significant at the 95% level of statistical confidence, the table indicates that the magnitude of the disparity is in fact very small (0.5 violations for every 100 inspections).

Table 7: Roadside Inspection Violation and Out-of Service Rates for Mexican and U.S & Canadian Carriers, By Carrier Type, October 14, 2011- October 10, 2014

Safety Measure	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	U.S.& Can. Carriers, All States/ CA,NM, AZ, TX Only	U.S. &Can. Private and Exempt Carriers, All States/ CA, NM, AZ, TX Only
Inspections per Power Unit	53.3	21.4	25.2	1.8 / NA	1.0 / NA
Driver OOS Rate (number inspected)	0.2% (2,671)	1.7% (17,453)	1.5% (77,710)	4.9% / 3.7% (8.2M)/(2.2M)	5.2% / 4.6% (1.7M)/(324K)
Vehicle OOS Rate (number inspected)*	8.9% (1,080)	17.3% (11,764)	16.6% (52,866)	20.3% / 19.4% (5.4M)/(1.7M)	22.2% / 20.8% (1.3M)/(280K)
Driver Fitness Violation Rate	Less than 1 per 100 inspections	2.7 per 100	3.8 per 100	4.9 per 100 / 3.3 per 100	11.0 per 100 / 7.5 per 100
Hours of Service Violation Rate	1.0 per 100 inspections	6.1 per 100	6.3 per 100	17.0 per 100 / 14.4 per 100	8.9 per 100 / 8.6 per 100
Brake Violation Rate*	20.8 per 100 inspections	41.9 per 100	47.1 per 100	41.6 per 100 / 41.2 per 100	33.3 per 100 / 37.4 per 100

Source: FMCSA's Motor Carrier Management Information System (MCMIS), November 21, 201 .

*based on Level 1 and 2 vehicle inspections

To examine whether the safety performance of the Pilot Program carriers enrolled in the cross-border program was unduly influenced by particular carriers, the driver and vehicle OOS rates and other violation rates shown in Table 7 were also calculated at the individual carrier level, and then these carrier-level rates were averaged across the 14 active carriers. Such an approach mitigates the possible effect of one carrier with a large number of roadside inspections unduly influencing the measures being calculated. When this approach was used to calculate the Pilot Program carrier driver and vehicle OOS rates, the driver OOS rate changed from 0.2 percent to 0.1 percent and the vehicle OOS rate changed from 8.9 percent to 8.0 percent (not shown in table). As a result, using this alternative approach to calculating the OOS rates does not change any of the relationships implicit in the table.

Roadside Inspection Statistics Based on Level-1 Inspections Only

The vehicle inspection data presented in Table 7 for Mexican, U.S., and Canadian carriers include both Level-1 and Level-2 inspections. Level 1 inspections are full 37 point inspections. Level-2 inspections are less comprehensive than Level-1 inspections and do not involve an examination of the vehicle's undercarriage. As a result, it is more likely that a vehicle violation will be detected in a Level-1 inspection. Mexican carriers receive a much higher percentage of Level-1 inspections at the roadside than do U.S. and Canadian carriers and this may create a bias when comparing the Mexican carrier OOS and other violation rates in Table 7 to those of U.S. and Canadian carriers (for example, 91% of the Certificate carrier vehicle inspections and 85% of the Enterprise carrier inspections used in Table 7 are Level 1 inspections, compared to 50% of the U.S. and Canadian carrier inspections). Table 8, below, presents vehicle OOS and violation rates for Mexican, and U.S. and Canadian carriers during the assessment period, based on Level-1 inspections only.¹⁴

Using only Level-1 inspections from all inspection locations, the vehicle OOS rates for the Mexican carrier groups increased slightly (by no more than one percentage point for any group), when compared to their vehicle OOS rates based on both Level-1 and Level-2 inspections (previously shown in Table 7). The vehicle OOS rate for all U.S. and Canadian carriers increased from 19.4% to 20.9% in the four Border States, when based on Level-1 inspections only. In the case of all U.S. and Canadian private and exempt-for-hire carriers, it decreased from 20.8% to 19.9%. Overall, however, the relationship between the vehicle OOS rates for the Mexican carrier groups and vehicle OOS rates for their U.S. and Canadian comparison groups did not change: all Mexican carrier groups continued to exhibit lower rates than their comparison groups when only considering Level-1 inspections from all locations.

For the brake violation rate, as shown in Table 7, Certificate and Enterprise carriers had higher brake violation rates than their U.S. and Canadian comparison groups when using both Level-1 and Level-2 inspections (with the Enterprise carriers showing the highest rate), while the Pilot Program carrier group exhibited a brake violation rate that was approximately 50% lower than the rate for all U.S. and Canadian carriers (see Table 7). Table 8 indicates, however, that when only considering Level-1 inspections, all Mexican carrier groups have lower brake violation rates than their comparison groups.

¹⁴ The Vehicle OOS rates and Brake Violation rates are the only violation rates that are affected by the distinction between Level 1 and Level 2 vehicle inspections. The other violation rates concern drivers, and are, therefore, not affected by the different types of vehicle inspections.

Table 8: Vehicle Out-of Service Rates and Violation Rates for Mexican and U.S. & Canadian Carriers, Based on Level-1 Inspections Only, October 14, 2011 – October 10, 2014

Safety Measures	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers / CA,NM,AZ, TX Only	Private and Exempt-For-Hire US/Canadian Carriers / CA,NM,AZ, TX Only
Vehicle OOS Rate* (number inspected)	9.2% (935)	18.2% (10,143)	17.2% (43,251)	24.2% (2.2M) / 20.9% (852K)	23.8% (586K) / 19.9% (126K)
Brake Violation Rate* (number inspected)	22.6 % (935)	47.4% (10,143)	54.5% (43,251)	79.2% (2.2M) / 60.6% (852K)	57.9% (586K) / 54.7% (126K)

Source: FMCSA's MCMIS, November 21, 2014.

*Based on Level 1 vehicle inspections only

Roadside Inspections for U.S./Canadian Carriers Based on a Random Sample of Vehicles

Inspectors have a wide degree of discretion when it comes to selecting vehicles and drivers to be inspected at the roadside. They may make use of computer software developed by FMCSA to help them determine which vehicles and drivers to inspect based on the safety performance of their parent companies. In other instances, they may notice an apparent defect on the vehicle as it enters the inspection station and, consequently, decide to inspect the vehicle and its driver. At other times, they may inspect a vehicle because the Agency does not have much inspection data for the carrier in question. All of these factors combined result in the selection of vehicles to be inspected at the roadside a nonrandom process.

In this study, inspection data from Mexican carriers were compared to similar data from U.S. and Canadian carriers. However, if U.S. and Canadian carriers are being targeted for selection by a nonrandom process, the inspection data may not accurately reflect the true safety profile of all U.S. and Canadian carriers. To determine whether OOS rates and violation rates would be different for U.S. and Canadian carriers if based on random inspections, FMCSA also conducted a separate special study during the spring and summer of 2014, known as the National Fleet Safety Study, in which more than 2,000 vehicles were selected for roadside inspection in 26 states, based on a random sampling procedure. The following states participated in the study: AR, AZ, CA, CO, FL, GA, IL, IN, KS, LA, MA, MI, MO, NC, NJ, NM, NY, OH, OK, PA, TN, TX, VA, WA, WI, and WY. These States were selected based both on their providing, as a group, a broad geographic representation to the sample, as well as on their willingness to participate. The sampled States included the four southern Border States (CA, AZ, NM, and TX)

and all vehicles at the roadside were eligible for sample selection, regardless of country of domicile.

The number of random inspections requested of each State was approximately in proportion to the total number of inspections performed in that State annually and participating States were allowed to fulfill their sample size requirements for driver and vehicle inspections by using a variety of inspection levels. If a particular inspection represented both a vehicle and a driver inspection, then that inspection counted towards meeting the sample size requirements for both driver and vehicle inspections. The results from the more than 2,000 inspections performed from the random sampling (2,104 driver inspections and 2,094 vehicle inspections) are presented in Table 9.

**Table 9: Results from the National Fleet Safety Study 2014:
Driver and Vehicle OOS Rates Based on a Sample of Randomly
Selected Vehicles in 26 States**

Driver OOS Rate	Vehicle OOS Rate
5.3 %	22.3 %

The results from the National Fleet Safety Study indicate a driver OOS rate of 5.3%. In comparison, the national driver OOS rate based on all inspections performed during Fiscal Year (FY) 2014 was 5.0%. The difference between these two rates is not statistically significant at the 95% level of statistical confidence. The vehicle OOS rate from the study is 22.3% and the national vehicle OOS rate based on all inspections performed during FY 2014 was 20.3%. The difference between these two rates is statistically significant. Given that the driver OOS rate from the National Fleet Safety Study is virtually the same as national driver OOS rate, and that the vehicle OOS rate from the study is actually higher than the national vehicle OOS rate, the Agency currently has no evidence to suggest that the targeted nature of the normal inspection process results in OOS rates that are inflated.

Safety Measurement System (SMS) Data

FMCSA’s SMS evaluates motor carriers in seven Behavior Analysis and Safety Improvement Categories (BASICS). Scores are assigned to each carrier on a 0-100 scale, where 100 represents the worst performance. For each BASIC category, a threshold score is designated which requires an intervention for any carrier whose BASIC score exceeds that threshold. Table 10 below provides data on the percentage of Pilot Program, Certificate, Enterprise, and U.S. and Canadian carriers with at least one BASIC score exceeding the intervention threshold value in the five BASICS that result in a score. The Crash and Hazardous Materials BASICS do not currently result in a publicly available score.

For four BASIC categories (Unsafe Driving, Hours-of-Service Compliance, Driver Fitness, and Controlled Substances and Alcohol), FMCSA assigns driver-related BASIC scores to carriers having at least 3 driver inspections and at least 1 violation in the BASIC category. For Vehicle Maintenance, the Agency assigns BASIC scores to carriers having at least 5 vehicle inspections and at least 1 violation in the BASIC category.

For this assessment, all drivers and vehicles associated with the Pilot Program carriers are reflected in the BASIC scores rather than only considering approved drivers and vehicles. This is consistent with the fact that once NAFTA is fully implemented, the Agency plans to grant full operating authority to those Mexico-domiciled carriers vetted by the Agency, and not just operating authority to a subset of their drivers and vehicles.

Of the 14 Pilot Program carriers operating during the assessment period, 13 had sufficient data to be scored in at least one BASIC as of the end of the Pilot Program. Three carriers (23%) had at least one BASIC over the intervention threshold for their company’s full operations as of this same date. This compares to a percentage value of 25% for all U.S. and Canadian carriers. As noted above, these BASIC scores are based on all violations associated with the carrier and, even though some of the carriers in the Pilot Program only had a subset of their vehicles and drivers approved to participate in the Pilot Program. As a result, the SMS BASIC scores for the Pilot Program carriers may include violations associated with drivers and vehicles that are only authorized to operate in the commercial zones.

For the 641 Enterprise carriers with sufficient data to be scored in at least one BASIC, 23% had at least one BASIC over the intervention threshold. For the 207 Certificate carriers with sufficient data, 14% had at least one BASIC score over the intervention threshold. As is the case with the Pilot Program carriers, both of these percentage values are lower than the percent of carriers over the intervention threshold in each of their respective comparison groups.

Table 10: Percentage of Carriers with At Least One BASIC Score Over the Intervention Threshold for Pilot Program, Certificate, Enterprise, and U.S. & Canadian Carriers, October 14, 2011 - October 10, 2014

	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers	Private and Exempt-For-Hire US/Canadian Carriers
Number with Sufficient Data for 1+ BASIC score	13	207	641	251,276	86,051
Number of Carriers over Threshold for 1 + BASIC	3	28	146	63,116	14,917
% of Carriers with Sufficient Data Over Threshold	23%	14%	23%	25%	17%

Source: MCMC as of November 21, 2014

Moving Violations

Based on data collected by FMCSA during the 36-month assessment period, Pilot Program carriers received two moving violations during the assessment period and their rate of moving violations per power unit was much lower than the moving violation rate for all U.S. and Canadian carriers during the same time period (0.03 violations per power unit versus 0.12 per power unit). Certificate carriers, however, had a moving violation rate that was slightly lower than the rate for all U.S. carriers, but higher than the rate for their comparison group consisting of private and exempt-for-hire carriers (this difference is statistically significant at the 95% level of statistical confidence). Enterprise carriers had a moving violation rate that was comparable to the rate for all U.S. carriers, although slightly higher (this difference is statistically significant at the 90% level of statistical confidence, but not at the 95% level). This information is summarized in Table 11, below.

The 65 power units noted in Table 11 for Pilot Program Carriers include all approved power units that operated during the Pilot Program. This is higher than the number of vehicles cited in Table 2 (which reflects vehicles in the Pilot Program as of October 10, 2014) because two motor carriers left the program and motor carriers changed their number of vehicles throughout the program.

Table 11: Number of Moving Violations per Power Unit for Pilot Program, Certificate, Enterprise, and U.S. & Canadian Carriers, Occurring Between October 14, 2011 - October 10, 2014***

	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers	Private and Exempt-For-Hire US/Canadian Carriers
Moving Violations	2	78	447	557,771	97,948
Power Units	65	800	3,092	4,516,000	1,762,203
Moving Violations per Power Unit	0.03	0.10	0.14	0.12	0.06

*These rates are based on a 36-month period and were not annualized.

**Carriers whose MCMIS data indicated power-unit-to-driver ratios greater than 5 were excluded from the calculations for purposes of quality control.

Source: MCMIS, as of November 21, 2014.

Crash Data

Table 12 presents crash rates for recordable crashes,¹⁵ based on a 36-month assessment period, for Pilot Program carriers, Certificate carriers, Enterprise carriers, and for both comparison groups representing all U.S. and Canadian carriers. The crash rates are expressed in terms of crashes per million miles traveled per year. Mileage data for the Pilot Program carriers was obtained from electronic monitoring devices installed on all approved vehicles. For all other carriers (i.e., Certificate, Enterprise, U.S. and Canadian carriers), mileage information was obtained from their MCS Form 150, which they must submit to FMCSA when applying for a U.S. DOT number, and which must be updated every other year. Because the mileage data from the MCS Form 150 represents annual mileage, it must be adjusted to account for the time period of the Pilot Program assessment. Thus, for this assessment, each carrier's annual mileage data was multiplied by 3 when estimating crash rates for Certificate, Enterprise, U.S., and Canadian carriers to account for the fact that the motor carrier vehicle miles traveled (VMT) data in MCMIS is annual data and the collection period for the crash data in this assessment is 36 months. For purposes of quality control, carriers whose MCMIS-reported annual VMT divided by their MCMIS-reported power unit counts is greater than 200,000 miles per power unit were excluded from the calculations. This adjustment was made because VMT over 200,000 miles per power unit is generally not achievable without non-compliance with FMCSA's regulations, and is, therefore, considered an unreliable data point.

Table 12 indicates that Pilot Program carriers had a higher crash rate than U.S. and Canadian carriers during the 36 months of the Pilot Program due to their having sustained one crash and their having accumulated only 1.5 million miles of VMT (0.65 crashes per million VMT versus 0.52 crashes per million VMT for all U.S. and Canadian carriers). However, since crashes are rare events, this amount of accumulated mileage for the Pilot Program carriers is not sufficient for generating a precise crash rate profile for this population group. And because only one crash occurred during the analysis period for the Pilot Program carriers, there is insufficient to calculate a reasonably accurate estimate of the population variability. Thus, although no statistically significant difference was found between the crash rate of the Pilot Program carriers and the crash rate of their comparison group, one should be cautious about drawing conclusions about such tests in the case of the Pilot Program carriers¹⁶. In addition, it should be noted that per the crash report from the San Diego Police Department, the traffic collision involving the Pilot Program carrier occurred when a motorist in a passenger vehicle drove in front of the commercial vehicle in a private driveway. The motorist was operating a passenger vehicle and sustained an injury.

The crash rates for Certificate and Enterprise carriers during these 35.5 months are similar to the crash rates of their comparison groups (all U.S. and Canadian private and exempt-for-hire carriers, and all U.S. and Canadian carriers, respectively). The crash rate for Certificate carriers was 0.74 crashes per million VMT, versus 0.62 crashes per million VMT for its comparison group, and the crash rate for the Enterprise carriers was 0.67 crashes per million VMT, versus

¹⁵ Recordable crashes include fatality-, injury-, and towaway-related crashes.

¹⁶ Since the crash rates in this report are ratio estimates, Taylor's Series approximations were used to estimate all standard errors required for statistical testing. This common statistical procedure converts the nonlinear ration estimate to a linear function when standard errors are calculated.

0.52 crashes per million VMT for its comparison group of all U.S. and Canadian carriers. These differences, however, were not found to be statistically significant.

Table 12: Crash Rates (Crashes per Million Miles) for Pilot Program, Certificate, Enterprise and U.S. and Canadian Carriers, October 14, 2011-October 10, 2014

	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers*	Private and Exempt-For Hire US/Canadian Carriers*
Reportable Crashes*	1	34	208	251,141	56,992
Vehicle Miles Traveled (VMT) for Filtered Carriers**	1.5 million	45.4 million	312 million	487 billion	91 billion
Crashes per Million Miles	0.65	0.74	0.67	0.52	0.62

* Source: MCMIS, November 21, 2014.

*As a quality control check, only used carriers whose MCMIS data indicated 200,000 vehicle miles of travel or less per power unit.

**Because the assessment period was 36 months and the VMT data from MCMIS is annual data, carrier crash rates for non-pilot program carriers were approximated by multiplying their total annual VMT in MCMIS by factor of 3. VMT data for pilot program carriers came directly from onboard electronic monitoring devices, required on all participating vehicles.

Table 13 shows similar data to Table 12, but for combined fatality- and injury-related crashes only. The table indicates that, although the crash rate for the Pilot Program carriers does not change (because the only crash during the assessment period for the Pilot Program carriers was one injury-related crash), the crash rates for both the Certificate and Enterprise carriers are approximately the same as the crash rates for their comparison groups (the rate rounds to 0.3 crashes per million VMT for both the Certificate carriers and its comparison group, and rounds to 0.2 crashes per million VMT for both the Enterprise carriers and its comparison group). As in the case of the Table 12 data, statistical testing does not indicate that any of these differences is statistically significant.

Table 13: Combined Fatality- and Injury-Related Crash Rates (Crashes per Million Miles) for Pilot Program, Certificate, Enterprise and U.S. and Canadian Carriers, October 14, 2011-October 10, 2014

	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers*	Private and Exempt-For Hire US/Canadian Carriers*
Fatality- and Injury-related Crashes*	1	13	76	98,418	23,837
Vehicle Miles Traveled (VMT) **	1.5 million	45.4 million	312 million	487 billion	91 billion
Fatality- and Injury-related Crashes per Million Miles	0.65	0.29	0.24	0.20	0.26

*As a quality control check, we only used carriers whose MCMIS data indicated 200,000 vehicle miles of travel or less per power unit.

**Because the assessment period was 35.5 months and the VMT data from MCMIS is annual data, carrier crash rates for non-pilot program carriers were approximated by multiplying their total annual VMT in MCMIS by a factor of 2.63. VMT data for pilot program carriers came directly from onboard electronic monitoring devices, required on all participating vehicles.

Source: MCMIS, as of November 21, 2014.

Compliance Review Data

Data on violations found from compliance reviews (CRs) conducted during the Pilot Program period were evaluated for all Mexican and U.S and Canadian carrier groups. Table 14 presents information on the average number of acute and critical violations found per CR for these carriers, as well as the percentage of CRs that resulted in a safety rating of “conditional” or “unsatisfactory,” based on reviews conducted between October 14, 2011, and October 10, 2014.

Based on the 11 CRs conducted on Pilot Program carriers during this period, one Pilot Program carrier received a rating of “conditional” and none received a rating of “unsatisfactory.” They had one acute violation during 11 reviews, whereas all U.S. and Canadian carriers had an acute violation rate of approximately twice that. Their rate of critical violations per review was also lower than the critical violation rates for all U.S. and Canadian carriers (0.5 violations per review versus 1.2 for all U.S. and Canadian carriers)

Exclusive of the Pilot Program carriers that received CRs as a result of being enrolled in the Pilot Program, the Agency generally limits CRs to carriers that it has identified as having safety performance problems, and does not conduct them on a random basis. Thus, inferences cannot be made about an entire carrier group based on those carriers in the group receiving CRs. Rather, the CR data may only be generalized to those carriers targeted for this kind of intervention.

During the assessment period, there were 26 CRs performed on Enterprise carriers and three performed on Certificate carriers. Of the 26 Enterprise carriers receiving CRs during the assessment period, the average number of acute violations found per review was low (0.1 violations per review, versus 0.2 violations per review for all U.S. and Canadian carriers) and the number of critical violations per review was similar to that found for all U.S. and Canadian carriers. Ten (38%) of these carriers received a conditional or unsatisfactory safety rating from these CRs, which is comparable to the percentage of conditional or unsatisfactory ratings issued to U.S. and Canadian carriers receiving CRs (39%). Three Certificate carriers received CRs during the 36-month assessment period. All of them received conditional or unsatisfactory safety ratings, although none was cited for an acute violation. Because CRs within this group are not conducted randomly, the percentage of CRs that are conditional or unsatisfactory is not a valid basis for evaluating the safety of the group as a whole.

Table 14: Percentage Conditional/Unsatisfactory Compliance Reviews and Average Number of Critical and Acute Violations per Review Occurring Between October 14, 2011 – October 10, 2014

	Pilot Program Carriers	Certificate Carriers	Enterprise Carriers	All U.S. and Canadian Carriers	Private and Exempt-For-Hire US/Canadian Carriers
Percent of Reviews with Conditional or Unsatisfactory Rating	9% (11 CRs)	100% (3 CRs)	38% (26 CRs)	39% (22,286 CRs)	32% (5,801 CRs)
Average Acute Violations Per Review	0.1	0	0.1	0.2	0.3
Average Critical Violations Per Review	0.5	2.0	1.0	1.2	1.2

Source: MCMIS November 21, 2014

Data Findings

This analysis assessed the safety performance of carriers in the U.S.-Mexico Cross Border Long-Haul Pilot Program, as well as other Mexican carriers, during the full 36 months of the program. In accordance with the objectives of a pilot program, this analysis set out to determine whether the Mexico-domiciled carriers interested in and eligible to enroll in the U.S.-Mexico Cross-Border Long-Haul Trucking Pilot Program were able to operate in the United States at an equivalent level of safety as U.S. motor carriers. As prescribed by statute, such a conclusion can be made if the analysis indicates that vehicles and drivers belonging to Pilot Program participants demonstrate that Mexico-domiciled motor carriers have a safety level equivalent to U.S. and Canadian motor carriers and drivers currently operating in this country. This conclusion is supported by the additional analysis conducted on Certificate and Enterprise carriers and their comparison groups.

The vast majority of measures used in the analysis (e.g., moving violation rates, compliance review critical and acute violation rates, vehicle and driver roadside OOS rates, and various roadside inspection violation rates) indicate that Pilot Program carriers were as safe as U.S. carriers, and for those measures where sample sizes were large enough to allow for statistical significance testing, such as roadside OOS and violation rates, the data suggest that the Pilot Program carriers operated at least as safely as (and in some instances more safely than) their U.S. and Canadian counterparts.

Although the “per vehicle miles traveled” crash rate was higher for the Pilot Program carriers than for all U.S. and Canadian carriers, Pilot Program carriers only sustained one crash during the assessment period and the amount of miles accumulated for these carriers during this period (1.5 million miles) may not have been sufficient for generating a precise crash rate profile. When statistical testing is performed with the limited data available, the results do not indicate statistically significant differences between the crash rate for Pilot Program carriers and the rate for all U.S. and Canadian carriers. Crash rates for Certificate and Enterprise carriers were not dramatically different from the crash rates of their comparison groups, and, in the case of the more serious combined fatality- and injury-related crashes, were similar. When considering all crashes, as well as fatality- and injury-related crashes, differences in crash rates between the Certificate and Enterprise carriers and their comparison groups were not found to be statistically significant.

Based on all inspections (i.e., all levels) from all locations, both the Pilot Program carriers and all other Mexican carrier groups (Certificate and Enterprise carriers) exhibited lower driver and vehicle OOS rates during the assessment period than did their respective U.S. and Canadian comparison groups, as well as lower HOS violation rates. In addition, all Mexican carrier groups had similar or lower driver fitness violation rates than the comparison groups. When using Level-1 inspections only, the vehicle OOS rates and brake violation rates were also lower for all Mexican carrier groups than for the comparison groups.

While we initially questioned if comparisons to national OOS rates might be biased by the selection process for U.S. and Canadian trucks, which is based on past poor performance, the National Fleet Safety Survey that we conducted in 2014, based on a randomly selected sample of

trucks nationwide, suggested that driver OOS rates and vehicle OOS rates for the random fleet survey trucks were similar to the OOS rates for trucks inspected as part of the normal truck inspection process. We, therefore, concluded that the normal national inspection data provide a valid basis for characterizing the safety performance of U.S. and Canadian trucks.

Only two moving violations were issued to Pilot Program carriers during the 36-month assessment period, resulting in a lower average number of moving violations per power unit than what was found for U.S. and Canadian carriers. The average number of moving violations per power unit for the Certificate and Enterprise carriers was similar or lower than the moving violation rate for all U.S. and Canadian carriers, although both the rates for the Certificate and Enterprise carriers were slightly higher than the rates for their respective comparison groups. Although these differences were slight, they were found to be statistically significant. The percentage of Pilot Program carriers with at least one BASIC score over the intervention threshold (based on carriers with at least one BASIC score) is comparable to (and slightly lower than) the percentage found for all U.S. and Canadian carriers. This relationship also holds for Certificate and Enterprise carriers.

Based on the 11 compliance reviews conducted on Pilot Program carriers during this period, all but one received a rating of “satisfactory” (one received a rating of “conditional”) and only one acute violation was issued. CRs from all U.S. and Canadian carriers showed a considerably higher percentage of unsatisfactory or conditional ratings and a higher rate of acute violations. The Pilot Program carriers’ rate of critical violations per review was also lower than the rate for all U.S. carriers.

Based on the 26 CRs conducted on Enterprise carriers targeted for intervention, it was found that they had a similar percentage of reviews resulting in a conditional or unsatisfactory rating, had a lower acute violation rate, and a similar critical violation rate, relative to their comparison group of U.S. and Canadian carriers similarly targeted for this kind of intervention.

Only three Certificate carriers received CRs during this same period. All of them received conditional or unsatisfactory safety ratings, although none was issued an acute violation. Due to the small sample size of reviews conducted on these carriers, conclusions cannot be made concerning differences between Certificate carriers targeted for review and all U.S. and Canadian private and exempt-for-hire carriers similarly targeted for review.

The analysis showed few instances where the safety performance of Pilot Program carriers, Certificate carriers, or Enterprise carriers was worse than that of their comparison groups. In most of these instances, differences between the Mexican carriers and their comparison groups were very small, and this is true even when such differences were found to be statistically significant.

These occurrences can be summarized as follows:

(1) Brake violation rates were higher for Certificate and Enterprise carriers when based on all inspections. However, this particular disparity appears to result from the fact that a larger fraction of the Certificate and Enterprise carrier inspections are Level 1 inspections than for their comparison groups. When only considering the Level 1 inspections, these rates dropped to values lower than their comparison group rates.

- (2) The driver fitness violation rate for Enterprise carriers was slightly higher than the rate of its comparison group (all U.S. and Canadian carriers) when only considering comparison group data from the border states. Although statistical significance testing suggests this disparity is statistically significant, it is very small (0.5 for every 100 inspections).
- (3) The number of moving violations per power unit was higher for Certificate and Enterprise carriers when compared to their respective comparison groups, and the difference for the Certificate carriers is statistically significant at the 95% level of statistical confidence.
- (4) The crash rates for all Mexican carrier groups were higher than the crash rates of their comparison groups. However, none of the crash rate differences between any of the Mexican carrier groups and their respective comparison group was found to be statistically significant.
- (5) The critical violation rate per compliance review was higher for Certificate carriers than for its comparison group. However, since only 3 compliance reviews were performed on Certificate carriers during the assessment period, conclusions cannot be drawn about the statistical significance of the disparity.

On the whole, the analysis shows that all Mexican carrier groups performed as well as their comparison groups in the majority of measures used in this study. In those instances where they did not, the disparity is generally small.

CONCLUSION AND RECOMMENDATION

Based on the data collected and analyzed for the Pilot Program period, including the data used for comparison purposes from other Mexico-owned motor carriers with largely the same type of long-haul operations, DOT has concluded that Mexico-domiciled motor carriers, conducting long-haul operations beyond the commercial zones of the United States, operate at a level of safety levels that is equivalent to, or greater than, the level of safety of U.S. and Canada-domiciled motor carriers operating within the United States. This includes XXX Mexico-owned motor carriers that received Enterprise operating authority during this Pilot Program period and have, as a group, operated at safety levels that are comparable to U.S and Canada-domiciled motor carriers.

Accordingly, the report recommends that no significant changes be made to the Federal Motor Carrier Safety Regulations at this time.

While the OIG could not determine with confidence that the Pilot Program participants were representative of the population of Mexico-domiciled carriers that may seek and be granted long-haul authority, Mexican authorities and industry representatives indicate that the response to the Pilot Program would likely reflect the response following full NAFTA implementation.

The FMCSA issued revised certificates of standard and provisional operating authority registration to the 13 Pilot Program participants on October 10, 2014, allowing them to continue cross-border long-haul operations in the United States. These carriers have complied with the Agency's regulatory requirements for issuance of provisional or permanent operating authority under 49 CFR Part 365. These carriers will continue to be subject to safety monitoring and other requirements of 49 CFR Part 385, Subpart B, including the requirement that carriers with provisional authority undergo a compliance review and receive a satisfactory safety rating before permanent authority is issued.

The converted cross-border long-haul authority requires the companies' entire operations to comply with the requirements for long-haul carriers, including CVSA decals on all vehicles, DOT number markings with an "X" on all vehicles, and English language proficiency for all drivers. This information was conveyed to these motor carriers in advance of the conversion of their operating authority. The FMCSA will also continue to inspect Mexican long-haul trucks and drivers to ensure continued compliance, and will monitor the SMS scores of Mexico-domiciled long-haul motor carriers to ensure that they continue to operate safely. This oversight and the continued requirements on their entire company are significant disincentives for the companies to use either unqualified vehicles or drivers.