
Office of Inspector General
Audit Report

Mexico-Domiciled Motor Carriers

Office of the Secretary

Report Number: TR-2000-013

Date Issued: November 4, 1999



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

Memorandum

Subject: **ACTION:** Report on Mexico-Domiciled
Motor Carriers
Report No. TR-2000-013

Date: November 4, 1999

From: Alexis Stefani 
Assistant Inspector General for Auditing

Reply to
Attn of: JA-30

To: Acting Director, Office of Motor Carrier Safety

We are providing this report for your information and use. The audit was performed at the request of Congressman James L. Oberstar, Ranking Democratic Member of the House Committee on Transportation and Infrastructure because of his concerns about Mexico-domiciled motor carriers operating beyond the border states. The objective was to evaluate the adequacy of the Federal Highway Administration's oversight of Mexico-domiciled motor carriers operating in the United States. An executive summary of this report follows this memorandum.

The report concludes that Mexico-domiciled motor carriers are operating improperly in the United States and violating U.S. statutes either by not obtaining operating authority or by operating beyond the scope of their authority. Using fiscal year 1998 roadside inspection data, we identified 52 Mexico-domiciled motor carriers that operated improperly in 20 states beyond the border states and 202 Mexico-domiciled motor carriers that operated improperly beyond the commercial zones within the border states.

There is no way of knowing how many Mexico-domiciled motor carriers improperly operated beyond the commercial zones. Assuming that Mexico-domiciled motor carriers are subjected to roadside inspections at the same rate (40 percent) as the U.S. carriers, we estimate that approximately 130 Mexico-domiciled motor carriers operated improperly outside the border states and 505 operated improperly outside the commercial zones within the border states.

Adequate mechanisms are not in place to control access of Mexico-domiciled motor carriers into the United States. To ensure that Mexico-domiciled motor carriers comply with U.S. statutes, controls should be established and safeguards

enhanced, including the verification of registration information; the use of automated data and state safety inspectors to monitor compliance; the implementation of consistent enforcement policies; increased fines; and additional resources for the border program.

Currently, the Congress is considering several Motor Carrier Safety bills, all of which support enhancement of safety regulations and more comprehensive oversight of motor carriers, both domestic and foreign, by the Department of Transportation. The House bill, as amended on October 14, 1999, contains provisions that address issues in this report for increasing fines, disqualifying foreign carriers operating in the United States, providing the Secretary authority to place vehicles out of service for registration violations, and including in grants to States the requirement for enforcing the operating authority. We concur with these congressional bills as they significantly strengthen the motor carrier safety program. However, it is the responsibility of the new Office of Motor Carrier Safety to ensure compliance with U.S. statutes.

On October 29, 1999, the results of the audit and our recommendations were discussed with the Office of Motor Carrier Safety's Director of National and International Safety Programs. The Director generally concurred with our findings and recommendations. There was overall agreement on the need for corrective actions. Therefore, we request that you provide us a list of the specific actions taken or planned in response to our recommendations, and the estimated completions dates within 30 calendar days of the date of this final report. You may provide alternative courses of action that you believe would resolve the issues presented in this report.

We appreciate the cooperation and assistance provided by your staff during the audit. If I can answer any questions or be of further assistance, please contact me on (202) 366-1992 or the Deputy Assistant Inspector General for Highways and Highway Safety, Patricia J. Thompson, on (202) 366-0687.

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EXECUTIVE SUMMARY

Mexico-Domiciled Motor Carriers

Office of the Secretary

November 4, 1999

REPORT NO. TR-2000-013

With the signing of the North American Free Trade Agreement (NAFTA) in December 1992, Mexico and the United States provided for cross-border trucking within both countries' border states starting no later than December 18, 1995. However, for safety reasons the U.S. Government delayed implementation of this access. To date, a 1982 Bus Regulatory Reform Act moratorium remains in effect requiring Mexican trucks to operate in restricted, designated commercial zones in the border states of Arizona, California, New Mexico, and Texas. These commercial zones generally encompass areas extending between 3 and 20 miles north of U.S. border cities. No physical boundaries (i.e. gates, fences, etc.) exist to prevent Mexico-domiciled motor carriers from traveling beyond the commercial zones. Mexican trucks enter the United States to deliver or pick up cargo within these zones.

Mexico-domiciled motor carriers¹ must obtain *operating authority (Certificate of Registration)*² from the U.S. Department of Transportation before they can operate anywhere in the United States. As of September 1999, the Office of Motor Carrier and Highway Safety's (OMCHS) database identified approximately 8,400 Mexico-domiciled motor carriers with authority to operate in the United States. The number of Mexico-domiciled motor carriers increased over 200 percent since April 1996. In addition to having operating authority, both the driver and the commercial vehicle of the Mexico-domiciled motor carrier must meet U.S. safety standards in order to operate anywhere in the United States.

Objective

The audit objective was to evaluate the adequacy of the Federal Highway Administration's³ (FHWA) OMCHS oversight of Mexico-domiciled motor

¹ A Mexico-domiciled motor carrier is a business entity that transports passengers or property in commercial vehicles (buses designed to transport 16 or more passengers including the driver and trucks with a gross weight of more than 10,000 pounds) and whose business address is located in Mexico.

² A Certificate of Registration is evidence of the carrier's U.S. operating authority to engage in transportation in the United States. The certificate dictates the type of motor carrier operation, the commodities that can be transported, and the territory in which the carrier can operate.

³ On October 9, 1999, consistent with Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriation, the Secretary redelegate motor carrier functions from FHWA's Office of Motor Carrier and Highway Safety to the Acting Director of a new Office of Motor Carrier Safety in the Department of Transportation.

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carriers operating in the United States. Specifically, we examined (1) the statutory authority of Mexico-domiciled motor carriers to operate outside the commercial zones, (2) the safety violations of Mexico-domiciled motor carriers cited during roadside inspections conducted beyond the four southern border states, and (3) the enforcement actions against Mexico-domiciled motor carriers who operated beyond the four southern border states, and future Government plans to monitor the operations of Mexico-domiciled motor carriers operating outside the commercial zones.

Background

Congressman James L. Oberstar, the Ranking Democratic Member of the House Committee on Transportation and Infrastructure requested this audit because of his concerns about Mexico-domiciled motor carriers with commercial vehicles operating beyond the border states. Under NAFTA's original timetable commercial trucks were scheduled to operate in the United States beyond the four southern border states by January 1, 2000. According to Office of Motor Carrier Safety officials, no decision has been made at this time about the January 1, 2000 deadline.

During an October 7, 1999 speech at the Labor Research Association's Labor Awards dinner, President Clinton made the following comments in reference to implementing the delayed NAFTA provisions:

...I don't intend to allow the trucking rules to be changed until there's safety there that we can know about... The problem I have is that it's too hard to enforce the rules. This is a rule we still have control of, and we now have evidence that two-thirds of the trucks that come across the border are not safe; they don't meet our standards. And I intend to see that the rules are followed before I follow the rules on this. I think that's important.

Results in Brief

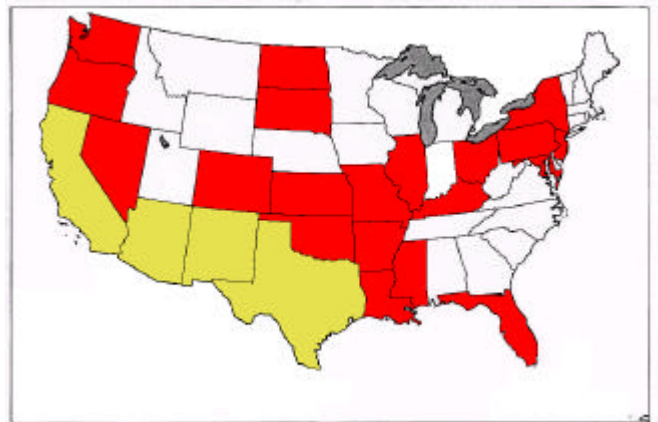
About 98 percent of the 8,400 Mexico-domiciled motor carriers with authority to operate in the United States are currently limited to operating within the commercial zones along the four southern border states provided they meet U.S. safety standards. Under applicable statutes, the remaining 2 percent (168 motor carriers) are allowed to operate beyond the commercial zones. The following are the 2 percent with exceptions.

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- There are about 150 Mexico-domiciled carriers who claim U.S. citizens are majority owners.
- There are 12 Mexico-domiciled, Mexican-owned motor carriers who transport passengers in international charter or tour bus operations between Mexico and the United States specified by provisions of NAFTA. Under the Bus Regulatory Reform Act of 1982, President Clinton modified the moratorium to authorize this exception effective January 1, 1994.
- There are five Mexico-domiciled, Mexican-owned motor carriers “grandfathered” because they received operating authority from the Interstate Commerce Commission prior to the Bus Regulatory Reform Act of 1982. These motor carriers have permanent authority to operate in the United States provided they meet U.S. insurance filing and safety requirements.
- There is one Mexico-domiciled, Mexican-owned motor carrier who is using the United States as a “land bridge” to reach Canada. The moratorium imposed by the 1982 Bus Regulatory Reform Act did not affect foreign commerce. *Therefore, any foreign carrier can transit the United States to get from Mexico to Canada, as long as they meet U.S. insurance filing and safety requirements and do not load or unload cargo in the United States.*

Mexico-Domiciled Motor Carriers Were Found Operating in Violation of U.S. Statutes

Mexico-domiciled motor carriers are operating improperly in the United States and violating U. S. statutes either by not obtaining the required operating authority or by operating beyond the scope of their authority. Department of Transportation records show that during FY 1998, roadside safety inspections were performed 666 times (584 inspections within the border states and 82 outside the 4 border states) on drivers and/or vehicles of 294 Mexico-domiciled motor carriers operating beyond the commercial zones. Of these, 52 motor carriers were operating improperly in 20 states (highlighted in red) *outside the 4 southern border states* (highlighted in yellow), and 202 motor carriers were operating improperly *beyond the commercial zones within the border states*.



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During FY 1998, the OMCHS database showed that about 40 percent of approximately 450,000 U.S. interstate motor carriers had at least one roadside safety inspection. There is no way of knowing how many Mexico-domiciled motor carriers improperly operated beyond the commercial zones. Assuming that Mexico-domiciled motor carriers are subjected to roadside inspections at the same rate as the U.S. carriers (40 percent), approximately 130 Mexico-domiciled motor carriers operated improperly outside the border states and 505 operated improperly outside the commercial zone but within the border states. Due to the lack of credible data, however, the number could be greater.

Citations Issued at Roadside Inspections Disclosed Critical Safety Violations

During FY 1998, there were about 24,000 safety inspections (23,300 inspections at the border and about 666 inspections beyond the commercial zones) performed on drivers and/or vehicles of Mexico-domiciled motor carriers. Of the 23,300 Mexican commercial vehicles inspected at the border, 41 percent failed to meet U.S. safety requirements and were placed out of service for serious safety violations. The out-of-service rates for vehicles at border inspections in Arizona, California, New Mexico, and Texas were 48 percent; 27 percent; 21 percent; and 51 percent, respectively.

We also reviewed the 503 roadside inspections contained in the database (437 roadside inspections beyond the commercial zone within the border states and 66 inspections beyond the border states) for the 254 Mexico-domiciled motor carriers (202 carriers beyond the commercial zones but within the border states and 52 carriers beyond the border states) operating improperly beyond the commercial zones. The types of violations cited on roadside inspections conducted on Mexico-domiciled motor carriers outside the commercial zones were comparable to the most critical safety violations identified for U.S. trucks; violations such as inoperative and defective brakes, flat and fabric-exposed tires, and light and lamp outages.

As a result of the 437 roadside safety inspections performed *outside the commercial zones but within the 4 border states*, 13 percent of the drivers and 32 percent of the vehicles were placed out of service for serious safety violations. In addition, the 66 roadside inspections performed *outside the 4 border states*, resulted in 17 percent of the drivers and 19 percent of the vehicles being placed out of service for serious safety violations. The following examples are where a driver and vehicle were placed out of service during a roadside inspection outside the four border states.

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A Mexican truck on its way to Florida to deliver furniture was stopped in Louisiana. The driver was placed out of service. The safety inspection report reads as follows:

- *No record of duty status (no driver logbook)*
- *No medical examiner's certificate*
- *Failure to obtain required commercial driver's license*
- *Allowing unqualified driver to operate vehicle*
- *Unable to read or speak English sufficiently*

A Mexican bus with passengers aboard was enroute to Las Vegas from Tijuana, Mexico, on December 30th. Both the driver and the vehicle were placed out of service by the Nevada safety inspectors. The following are excerpts from the inspection report:

- *“Stopped in roadway for no legal reason”*
- *Light problems, side lights blue, no license plate lamp, front lamps green*
- *Left front shock absorber missing*
- *No annual inspection*
- *No DOT number displayed*
- *Driver states “speak no English”*
- *No driver logbook and no medical card*

Motor Carrier Databases are Inconsistent and not Reliable

There are significant problems with the accuracy and completeness of information in OMCHS' databases. For example, in the Insurance and Licensing database, about 8,400 Mexico-domiciled motor carriers are identified as having U.S. operating authority. Although each carrier with operating authority should have a U.S. Department of Transportation identification number, according to the Motor Carrier Management Information System (MCMIS) database only 7,500 Mexico-domiciled motor carriers have U.S. Department of Transportation identification numbers.

We compared the Mexico-domiciled motor carriers assigned identification numbers from the MCMIS database to the Mexico-domiciled motor carriers with operating authority in the Insurance and Licensing database. We found that about 1,900 Mexico-domiciled motor carriers with identification numbers did not have

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authority to operate anywhere in the United States. In the operating authority database, there are about 700 Mexico-domiciled motor carriers having no identification number. We identified about 2,200 Mexico-domiciled motor carriers having a Mexican physical address in the operating authority database but a U.S. physical address in the identification number database. Because of numerous problems with the accuracy of existing databases, it is difficult to estimate the full extent to which other Mexico-domiciled motor carriers may have operated improperly in the United States.

In our Motor Carrier Safety Program audit report, dated April 1999, we reported significant deficiencies in the accuracy, the completeness, and the timeliness of data in the OMCHS' databases. This information is used to monitor the safety performance of motor carriers. We made specific recommendations in that report to OMCHS to obtain quality and timely data.

Adequate Mechanisms are not in Place to Control Access of Mexico-Domiciled Motor Carriers Into the United States

In applying for operating authority, a Mexico-domiciled motor carrier must provide information that indicates whether the motor carrier is Mexican or U.S. owned (including names and percent of ownership) and provide proof of U.S. citizenship. However, OMCHS does not have a process in place to verify information contained in applications submitted by Mexico-domiciled motor carriers. We reviewed eight Mexico-domiciled motor carriers who claimed to be U.S.-owned. However, we were only able to verify that three of the eight Mexico-domiciled motor carriers were owned by U.S. citizens.

The best place to establish a control mechanism to ensure that commercial vehicles entering the United States have operating authority is at the U.S.-Mexico border where commercial vehicles of Mexico-domiciled motor carriers are inspected. From Fiscal Years (FY) 1992 to 1998, annual commercial vehicle crossings⁴ into the United States from Mexico increased from 2.3 million to 3.9 million. In FY 1998, only 1.6 percent of the 3.9 million commercial vehicles that crossed into the United States at the U.S.-Mexico border were inspected. About 23,300 Mexico-domiciled motor carriers' vehicles were inspected at the border. No data exist specifying the total number of Mexico-domiciled motor carriers' vehicles that entered the United States in FY 1998.

⁴ The commercial vehicle crossings represent the total number of trips through U.S. Customs made by commercial vehicles and could include multiple trips by the same vehicle. The number of individual commercial vehicles involved in the cross-border traffic is unknown.

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Limited or No Enforcement Actions were Taken Against Mexico-Domiciled Motor Carriers That Operated Beyond Their Authority

During FY 1998, there were 65 enforcement actions initiated by OMCHS personnel at the U.S.-Mexico border on carriers operating without authority. In FY 1998, only 3 enforcement actions were initiated against the 202 Mexico-domiciled motor carriers operating without authority beyond the commercial zones but within the border states with 2 more actions taken against those carriers in FY 1999. No enforcement actions were taken against the 52 Mexico-domiciled motor carriers for operating *outside the border states* without authority. Furthermore, enforcement actions taken were inconsistent and penalties were not significant for operating authority violations *within the border states*.

Fines are Inconsistent and Low

Policies for enforcement actions against Mexico-domiciled motor carriers were different among the border states and resulted in inconsistent enforcement actions and fines. The four border states were aligned under two different FHWA resource centers.

For example, in Texas and New Mexico OMCHS' enforcement policy is to provide the motor carrier with a warning letter for the first violation of either operating without any authority or operating beyond the scope of authority, a fine of \$1,000 for the second offense of either operating authority requirement, and a \$1,000 increase for subsequent violations of the same regulation. However, in Arizona and California, OMCHS' enforcement policy is to levy a fine of \$500 for each violation of either operating without any authority or operating beyond the scope of authority, and the fine is not increased when a motor carrier is subsequently caught violating the same operating authority requirement. The need for consistent policies and procedures among the border states would justify placing the cross-border trucking program for all border states under one operational unit.

Initial fines imposed on Mexico-domiciled motor carriers for violating U.S. operating authority regulations range from \$500 to \$1,000. As such, motor carriers are likely to consider the fines to be a cost of doing business. Currently, provisions in the House bill to improve oversight of motor carriers provide for fine increases related to operating authority violations. The fines may be up to \$10,000 and carriers may be disqualified from operating in the United States for 6 months. For carriers with a pattern of intentional violations, the fines may be up to \$25,000 and disqualification from operating in the United States may be permanent.

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No Out-of-Service Action Available to Inspectors for Motor Carriers Solely for Operating Beyond the Commercial Zones

The Secretary of Transportation can revoke or suspend the operating authority of motor carriers or deny those carriers entry into the United States. However, there is no “on the spot” authority available for safety inspectors to place the vehicles out-of-service for violations of *operating authority* discovered during roadside inspections. OMCHS does not monitor the Mexico-domiciled motor carriers to ensure compliance with operating authority statutes. Furthermore, there are no specific plans to begin such a monitoring program.

OMCHS officials were aware that, except for California, state inspectors in the border states were not reviewing the certificates of registration. Further, they took little action to ensure that other States enforced the operating authority requirements. Provisions currently under consideration in the House bill will provide the Secretary authority to place vehicles out of service for registration violations. The bill also contains provisions such as including the registration requirement in the statute that covers grants to States for improving motor carrier safety and enforcing regulations.

Congressional Bills Under Consideration to Improve Oversight of Motor Carriers

Currently, the Congress is considering several Motor Carrier Safety bills, all of which support enhancement of safety regulations and more comprehensive oversight of motor carriers, both domestic and foreign, by the Department of Transportation. This legislation, when enacted, will bring about meaningful change to improve motor carrier oversight. Both the Senate (S.1501) and the House (H.R. 2679) bills propose a separate motor carrier agency in the Department of Transportation dedicated to truck and bus safety. These bills increase funding for Federal and State enforcement efforts, make important reforms to the commercial drivers license program, impose tough penalties for repeat violators, and reform other Federal motor carrier laws by closing loopholes. The House bill was amended on October 14, 1999, and currently contains provisions that address issues contained in this report. We concur with these congressional bills as they significantly strengthen the motor carrier safety program. The Office of Motor Carrier Safety must, however, ensure compliance with U.S. statutes.

The Department has expressed concern about Mexican motor carriers who are operating beyond the scope of their authority as well as their high rate of safety violations. The Department supports legislation that would permit Federal

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agencies to deny entry to all carriers that are not properly registered and allow Office of Motor Carrier Safety to assess higher penalties and place vehicles out-of-service if carriers are found to be operating outside the scope of their registration authority.

Summary of Recommendations

Our report makes recommendations to the Director of the Office of Motor Carrier Safety to take the following actions:

- Revise the current registration process to include procedures to verify that information provided in the applications submitted by Mexico-domiciled motor carriers supports the authority granted.
- Develop automated reports that identify Mexico-domiciled motor carriers operating improperly outside the commercial zones and ensure that these reports are scrutinized for subsequent enforcement action.
- Include language in the Motor Carrier Safety Assistance Program grants that links the receipt of Federal funds to a State performance requirement for reviewing and enforcing operating authority.
- Establish a border unit to ensure that consistent policies and procedures are established and implemented, and to investigate noncompliant motor carriers.

Management Position and Office of Inspector General Comments

We discussed our findings and recommendations with the Director of National and International Safety Programs in the new Office of Motor Carrier Safety. The Director generally concurred with our report and recommendations and stated that pending legislation would provide the office additional enforcement tools. The Office of Motor Carrier Safety will provide written comments to this report within 30 days.

CHAPTER I: STATUTORY AUTHORITY OF MEXICO-DOMICILED MOTOR CARRIERS TO OPERATE IN THE UNITED STATES

In 1982, Congress passed the Bus Regulatory Reform Act of 1982 (the 1982 Act) imposing a moratorium on the Interstate Commerce Commission's (ICC) ability to license or register Mexican motor carriers operating in the United States. Carriers, who received operating authority (Certificate of Registration¹) from the ICC prior to the 1982 Act were unaffected by the 1982 Act. The five "grandfathered" Mexican motor carriers have permanent authority to operate in the United States, as long as they meet U.S. insurance filing and safety requirements.

The moratorium imposed by the 1982 Act did not affect foreign commerce. Specifically, motor carriers who transport property from one foreign country to another foreign country could pass through the United States even though statutes and regulations prohibited those same motor carriers from delivering or picking up cargo in the United States. As a result, a Mexican motor carrier could travel from Mexico to Canada via the United States as long as the carrier does not drop off or pick up cargo in the United States, and meets U.S. insurance filing and safety requirements.

Congress amended the 1982 Act with the Motor Carrier Safety Act of 1984 (the 1984 Act). The 1984 Act required any foreign motor carrier that wishes to engage in interstate transportation in the United States to obtain a certificate of registration from the ICC. Congress restricted foreign motor carriers from Mexico to the commercial zones in the southern border states (Arizona, California, New Mexico, and Texas). Commercial zones along the Mexico-U.S. border generally extend from 3 to 20 miles north of U.S. border cities. Mexican commercial trucks may enter the United States to make deliveries or pick up cargo within these zones provided they meet U.S. safety standards. This restriction remains in effect today.

The Truck and Bus Safety and Regulatory Reform Act of 1988 (the 1988 Act), required that *all* Mexican motor carriers obtain certificates of registration before operating in the United States. This was done to bring all foreign motor carriers that were operating in the United States under the jurisdiction of the ICC.²

¹ A certificate of registration is evidence of the carrier's authority to engage in transportation in the United States. The certificate specifies the type of motor carrier operation, the commodities that can be transported, and the territory in which the carrier can operate.

² Congress passed the ICC Termination Act on December 29, 1995, which transferred the ICC's jurisdiction over interstate transportation to the Secretary of Transportation and the Surface Transportation Board.

About 98 percent of the 8,400 Mexico-domiciled motor carriers with authority to operate in the United States are currently limited to operating within the commercial zones along the 4 southern border states. These remaining 2 percent (168 motor carriers) are allowed to operate beyond the commercial zones under applicable statutes. They are: grandfathered carriers (5 carriers); transiting foreign commerce carriers (1 carrier); Mexico-domiciled³, U.S.-owned carriers (150 carriers); or bus and tour charter passenger carriers authorized by the provision of the North American Free Trade Agreement (NAFTA) (12 carriers). Under the Bus Regulatory Reform Act of 1982, President Clinton modified the moratorium to authorize this NAFTA exception effective January 1, 1994.

NAFTA was signed in December 1992 and provided that Mexico and the United States would permit access for long-haul commercial trucks within both countries' border states no later than December 18, 1995. However, the U.S. Government delayed implementation of this access because of safety concerns. Under NAFTA's original timetable, commercial trucks were scheduled to operate beyond the four border states by January 1, 2000. According to Office of Motor Carrier Safety, no decision has been made at this time about the January 1, 2000 deadline.

As required by law, Mexican commercial trucks and buses are subject to inspection at 28 border crossings (4 in California, 6 in Arizona, 2 in New Mexico, and 16 in Texas). In FY 1998, 41 percent of the 23,300 Mexican commercial vehicles that were inspected at the border failed to meet U.S. safety requirements and were placed out of service⁴. In FY 1997, the out-of-service rate for Mexican commercial vehicles inspected at the border was 44 percent.

During an October 7, 1999 speech at the Labor Research Association's Labor Awards dinner, President Clinton made the following comments in reference to implementing the delayed NAFTA provisions:

...I don't intend to allow the trucking rules to be changed until there's safety there that we can know about... The problem I have is that it's too hard to enforce the rules. This is a rule we still have control of, and we now have evidence that two-thirds of the trucks that come across the border are not safe; they don't meet our standards. And I intend to see that the rules are followed before I follow the rules on this. I think that's important.

³ A Mexico-domiciled motor carrier is a business entity that transports passengers or property in commercial vehicles (buses designed to transport 16 or more passengers including the driver and trucks with a gross weight of more than 10,000 pounds) and whose business address is located in Mexico.

⁴ Drivers and/or vehicles removed from service for serious safety violations.

CHAPTER II: Oversight of Mexico-Domiciled Motor Carriers

Mexico-domiciled motor carriers are operating beyond the commercial zones in violation of U. S. statutes. Congress directed that Mexican motor carriers be restricted to the commercial zones at the U.S.-Mexico border and that all Mexican motor carriers obtain certificates of registration before operating in the United States. In FY 1998, OMCHS' database shows that 294 Mexico-domiciled motor carriers had roadside safety inspections⁵ performed 666 times (584 inspections within the border states and 82 outside the 4 border states) on their drivers and/or vehicles operating beyond the commercial zones. Sixty-six inspections were performed on drivers and/or vehicles of 52 Mexico-domiciled motor carriers operating in violation of U.S. statutes in 20 states outside the 4 southern border states. Moreover, 202 of the Mexico-domiciled motor carriers operating only beyond the commercial zones within the border states were also operating improperly. The safety violations cited during these roadside inspections for the Mexico-domiciled carriers were comparable to the most critical safety violations identified for U.S. commercial vehicles.

These unauthorized motor carrier operations are occurring because an effective oversight system is not in place to monitor and enforce the U.S. motor carrier registration for Mexico-domiciled motor carriers. Deficiencies in the oversight system are:

- inadequate certificate of registration process,
- inadequate monitoring for compliance with regulations,
- limited or no enforcement and inadequate fines, and
- insufficient Federal inspectors and inspections facilities at the U.S.-Mexico border.

To ensure that Mexico-domiciled motor carriers comply with U.S. statutes, controls should be established and safeguards enhanced, including the verification of registration information; the use of automated data and state safety inspectors to monitor compliance; the implementation of consistent enforcement policies; increased fines; and additional resources for the border program.

⁵ Inspectors use standards established by the Commercial Vehicle Safety Alliance. The inspection standards define how the regulations will be enforced and define five inspection levels. Level-I, the most rigorous, is a full inspection of the truck and the driver. Level-II is a "walk around" inspection that includes a check of the driver and a visual inspection of the truck. Level-III focuses only on the driver. Level-IV and Level-V inspections are conducted for special purposes, such as a one-time inspection of a particular item to support a special study. The standards also include criteria for placing trucks and drivers out of service if the inspections find the truck or driver do not meet prescribed minimum safety requirements.

Mexico-Domiciled Motor Carriers Violate U.S. Statutes

Mexico-domiciled motor carriers are operating improperly in the United States and violating U. S. statutes either by not obtaining the required operating authority or by operating beyond the scope of their authority. Department of Transportation records show that during FY 1998, roadside safety inspections were performed 666 times (584 inspections within the border states and 82 outside the 4 border states) on drivers and/or vehicles of 294 Mexico-domiciled motor carriers operating beyond the commercial zones. Of these, 52 motor carriers were operating improperly in 20 states *outside the 4 southern border states*, and 202 motor carriers were operating improperly *beyond the commercial zones within the border states*.

Mexico-domiciled Motor Carriers Outside the Border States. The MCMIS database identified 68 Mexico-domiciled motor carriers in FY 1998 that were operating outside the 4 border states. These Mexico-domiciled motor carriers had 100 roadside safety inspections performed on their trucks and/or drivers in 24 states outside the 4 southern border states. The number of Mexico-domiciled motor carriers had increased from 11 carriers in FY 1994.

We analyzed the 100 roadside inspection reports identified in FY 1998 and the certificates of registration for the 68 carriers. We determined that 13 of the 68 carriers identified in the MCMIS database as Mexico-domiciled motor carriers inspected beyond the border states were data errors. Eighteen of the 100 roadside inspections related to these 13 carriers. The remaining 82 roadside inspections relates to the 55 Mexico-domiciled motor carriers operating beyond the border states. We used the date of the roadside inspection and allowed the 60-day grace period for an application in process and the certificate of registration as the basis to determine whether U.S. operations were authorized. The scope and methodology we used is described in Exhibit A and the activities we visited or contacted are listed in Exhibit B. The results of our review are shown in Figure 1.

Figure 1: FY 1998 Mexico-Domiciled Motor Carriers Operating Outside the Border States

Results of Analysis	Number of Carriers	Number of Carriers Violating U.S. Statutes
Operating without any evidence of U.S. operating authority.	22	22
Operating beyond granted authority.	24	24
Authority granted based on claim of U.S.-ownership.	8 ¹	6
Operating under foreign commerce statute in transit to Canada	1	0
Data error, inaccurately identified as Mexico-domiciled carrier	13 ²	0
Total	68³	52

¹ We were able to verify three of the claims to U.S.-ownership; however, one was operating beyond the granted authority.

² These 13 data errors are excluded from further analysis. The data errors were either data input errors or data matching errors. This condition was addressed and corrective recommendations were made in an April 1999 audit report, TR-1999-091, which covered the FY 1998 time period. Therefore, this report will not address recommendations for these data errors.

³ After exclusion of the data errors, the number of carriers reviewed is 55.

Of the 55 motor carriers, we determined that 52 were operating in violation of U.S. statutes. We were able to verify the ownership of three of the eight carriers claiming to be U.S.-owned, however, one of the three verified was operating beyond the granted authority. Additionally, one carrier was operating under the foreign commerce exception. The 52 Mexico-domiciled motor carriers operating improperly had roadside inspections performed on their vehicles and/or drivers 66 times in 20 states beyond the border states. Exhibit C shows the states where the 66 roadside inspections were performed.

There were 584 roadside inspections performed on drivers and/or vehicles of Mexico-domiciled motor carriers within the border states but beyond the commercial zones. Of these inspections, 437 related to the 202 Mexico-domiciled motor carriers operating improperly in the border states.

Estimate of Number of Carriers Operating Beyond Their Authority. We identified 52 Mexico-domiciled motor carriers with vehicles operating improperly beyond the border states, and 202 Mexico-domiciled motor carriers operating improperly beyond the commercial zone within the border states. It is difficult to assess how many other Mexico-domiciled motor carriers may have operated

improperly in the United States because of the limited availability of consistent data. During FY 1998, the OMCHS database showed that less than 40 percent of about 450,000 U.S. interstate motor carriers had at least one roadside safety inspection. Assuming that Mexico-domiciled motor carriers are subjected to roadside inspections at the same rate as the U.S. carriers (40 percent), we estimate that 130 Mexico-domiciled motor carriers operated improperly outside the border states, and 505 operated improperly outside the commercial zones but within the border states. Due to the lack of credible data, however, the number could be greater.

Safety Inspections Show Critical Safety Violations

The safety violations cited for the Mexico-domiciled carriers outside the commercial zones were comparable to the most critical safety violations identified for U.S. trucks. The violations included inoperative and defective brakes; flat and fabric-exposed tires; and light and lamp outages. According to state officials, all roadside inspections are random, unless the vehicle has a commercial vehicle safety alliance sticker or if there is an obvious safety violation.

For FY 1998, there were about 23,300 Mexican commercial vehicles inspected at the border; 41 percent of them failed to meet U.S. safety requirements and were placed out of service for serious safety violations. The out-of-service rates for vehicles at border inspections in Arizona, California, New Mexico and Texas were 48 percent; 27 percent; 21 percent; and 51 percent, respectively.

We reviewed the FY 1998 roadside inspections contained in the database for the 254 Mexico-domiciled motor carriers operating improperly beyond the commercial zones. As a result of the 437 roadside safety inspections performed *outside the commercial zones but within the 4 border states*, 13 percent of the drivers and 32 percent of the vehicles were placed out of service for serious safety violations.

In addition, the 66 roadside inspections performed *outside the 4 border states*, resulted in 17 percent of the drivers and 19 percent of the vehicles being placed out of service for serious safety violations. Specifically, 11 drivers and 10 trucks were placed out of service. In two of the inspections, the driver and the truck were concurrently placed out of service. There were 10 different safety violations for the 11 drivers put out of service. The safety violations related to driver records of duty status, varying from no logbooks to false reports; and the lack of or invalid commercial drivers' licenses. The following are examples of a driver and a vehicle that were placed out of service.

A Mexican truck on its way to Florida to deliver furniture was stopped in Louisiana. The driver was placed out of service. The safety inspection report reads as follows:

- *No record of duty status (No driver logbook)*
- *No medical examiner's certificate*
- *Failure to obtain required commercial driver's license*
- *Allowing unqualified driver to operate vehicle*
- *Unable to read or speak English sufficiently*

A Mexican bus with passengers aboard was enroute to Las Vegas from Tijuana, Mexico, on December 30th. Both the driver and the vehicle were placed out of service by the Nevada safety inspectors. The following are excerpts from the inspection report:

- *“Stopped in roadway for no legal reason”*
- *Light problems, side lights blue, no license plate lamp, front lamps green*
- *Left front shock absorber missing*
- *No annual inspection*
- *No DOT number displayed*
- *Driver states “speak no English”*
- *No driver logbook and no medical card*
- *No visible breaking action*

Exhibit D shows the safety violations cited for roadside inspections of the vehicles and/or drivers of the 52 Mexico-domiciled motor carriers operating outside the border states.

An Effective Oversight System Was Not in Place

We concluded that these unauthorized motor carrier operations were occurring because an effective oversight system was not in place to monitor and enforce the United States' motor carrier registration requirements for Mexico-domiciled motor carriers. Specifically, we found inadequate certificate of registration processes, inadequate monitoring for compliance, limited or no enforcement and inadequate fines, and insufficient federal inspectors and inspection facilities.

Motor Carrier Data are not Reliable

There are significant problems with the accuracy and the completeness of data in OMCHS' databases. For example, in the Insurance and Licensing database, there are 8,400 Mexico-domiciled motor carriers with operating authority. Although each motor carrier with operating authority should have a U.S. Department of Transportation identification number, the MCMIS database shows only 7,500 Mexico-domiciled motor carriers with identification numbers. The identification number is used in tracking the safety performance of a motor carrier. Since all of the Mexico-domiciled motor carriers with operating authority did not have an identification number, the safety performance of those motor carriers without an identification number is not tracked.

We compared the Mexico-domiciled motor carriers assigned identification numbers from the MCMIS database to the Mexico-domiciled motor carriers with operating authority in the Insurance and Licensing database. We found that about 1,900 Mexico-domiciled motor carriers with identification numbers did not have authority to operate anywhere in the United States. In the operating authority database, there are about 700 Mexico-domiciled motor carriers having no identification numbers. We identified about 2,200 Mexico-domiciled motor carriers having a Mexican physical address in the operating authority database but a U.S. physical address in the identification number database.

In our Motor Carrier Safety Program audit report (TR-1999-091), dated April 1999, we reported significant deficiencies in the accuracy, the completeness, and the timeliness of data in OMCHS' databases. This information is used to monitor the safety performance of motor carriers. We made specific recommendations in that report to OMCHS to obtain quality and timely data.

In view of the limited availability of consistent data, such as the number of Mexican trucks and buses that enter the United States at the U.S.-Mexico-border, it is difficult to estimate the full extent that other Mexico-domiciled motor carriers may have operated improperly in the United States.

Inadequate Certificate of Registration Process

Under Title 49, United States Code, Section 13902 (c)(4) a foreign motor carrier must file an application to obtain authority to operate within the United States. Form OP-2, "Certificate of Registration Application for Foreign Motor Carriers and Foreign Motor Private Carriers," is used to apply for that U.S. authority.

Our review of applications and certificates of registration maintained in the Licensing and Insurance Division of the OMCHS showed that the current process

for Mexico-domiciled motor carriers to obtain a certificate of registration was not adequate. There was too much reliance on the information contained in the application without verification. For example, there was no evidence that U.S. ownership had been verified before granting authority to eight motor carriers we reviewed. Rather, authority was granted based on information contained in the application that the majority (55 percent is used rather than the standard business practice of 51 percent) ownership were U.S. citizens. Specifically, procedures are not in place to require proof of ownership such as corporation or partnership documents when applications claim U.S. majority ownership.

Furthermore, documents that were provided were not certified copies. Proof of U.S. citizenship is required, which can consist of either a copy of a birth certificate, a copy of a passport, or a copy of nationalization papers. It is normal business practice, when requiring copies of evidence such as a birth certificate, that the copy provided must be certified (that is, copy provided contains a seal from the agency responsible for maintaining the original document).

We attempted to contact 27 Mexico-domiciled motor carriers without any evidence of operating authority and these 8 carriers claiming U.S. ownership to obtain documents to support operating authority and U.S. ownership. We verified three U.S. ownerships. Responses were not received from 12 of those 27 Mexico-domiciled motor carriers that we contacted. In fact, 8 of the 12 original letters were returned by the Postal Service or Federal Express as undeliverable.

In addition, we found evidence that applications had been suspended or operating authority had been revoked, but suspension and revocation notices were sent only to the carrier. For example, a certificate of registration had been revoked for 1 of the 52 Mexico-domiciled motor carriers that was improperly operating outside the border states. The certificate of registration was revoked because the U.S. citizen withdrew the ownership claim. The carrier was sent a letter revoking the operating authority. However, the certificate was not returned and there is no process in place to ensure that enforcement authorities at the border are notified when certificates of registration are suspended or revoked.

The registration process is an important control mechanism in properly granting U.S. operating authority. To be effective, however, procedures must be in place to ensure that the information contained in the application is accurate.

Inadequate Monitoring for Compliance with Regulations

OMCHS did not monitor the Mexico-domiciled motor carriers to ensure compliance with operating authority statutes. We found no specific plans to begin a monitoring program. Rather, OMCHS relied on U.S. Customs Service reviews

at border crossings and Federal inspectors who conduct safety inspections at the border crossings to ensure compliance with operating authority requirements. OMCHS officials were aware that, except for California, States were not reviewing the certificates of registration.

Since 1992 California has had a State law to fine those Mexican motor carriers operating without a certificate of registration or operating beyond the commercial zones. The other three border states have not passed similar legislation.

Review of the Certificates of Registration. Title 49, United States Code, Section 13902 (c) states that neither foreign motor carriers nor foreign private motor carriers may provide interstate transportation of property within the United States unless the Secretary of Transportation has issued them certificates of registration. The certificates must be carried in the vehicles for the vehicles to enter the United States at international border crossings. We did not find an adequate control mechanism in place at the border to ensure that the certificates of registration were reviewed.

We found that review of the certificates of registration differs from State to State along the U.S.-Mexico border. For example, in Arizona and California, U.S. Customs officials review certificates of registration before motor carriers are permitted to enter the United States. In New Mexico and Texas, however, Customs officials do not routinely review certificates of registration. After foreign motor carriers go past the border in California, state inspectors review certificates of registration during roadside inspections throughout the state. We found no evidence to indicate that any other states review certificates of registration during roadside inspections. Consequently, unless the truck happens to be selected for a safety inspection by a Federal OMCHS inspector at the border, the certificate of registration will probably not be reviewed.

Furthermore, the number of commercial vehicles inspected at the border is low. In FY 1998, only 1.6 percent of the 3.9 million commercial vehicles that crossed into the United States at the U.S.-Mexico border were inspected. For example, in FY 1998 there were 1.3 million commercial vehicles crossings⁶ in Laredo, Texas, for both U.S. and Mexican trucks and only 1,249 Mexican vehicles were inspected at this border crossing.

On the 66 roadside inspection reports reviewed for states outside the southern border states, we found that although the motor carriers were operating beyond

⁶ The commercial vehicle crossings represent the total number of trips through U.S. Customs made by commercial vehicles and could include multiple trips by the same vehicle. The number of individual commercial vehicles involved in the cross-border traffic is unknown.

their authority, the violations cited on the inspection reports were lack of state permits. There were no violations cited for lack of U.S. operating authority. One mechanism to ensure the review of the registration certificate would be to establish a control that requires the state safety inspectors throughout the United States to review this document and enforce operating authority violations.

Lack of Review of Available Data. We identified those Mexico-domiciled motor carriers operating outside the border states by reviewing the inspection data from the MCMIS database. Although poor, the data are sufficient to identify Mexico-domiciled motor carriers operating outside the border states. However, there were no indications that the OMCHS staff reviewed the data to determine whether carriers were operating beyond their authority. While the States report an enormous number of inspections throughout the year, Mexico-domiciled carriers are the exceptions and could be monitored easily if a periodic report was extracted from the database and reviewed. Referrals could then be made to the enforcement officials, as appropriate.

Enforcement Actions are Limited and Fines are Inadequate when Violations of Operating Authority Occur

According to Title 49, United States Code, Section 13905 (c), the Secretary may amend, suspend, or revoke any part of a motor carrier's certificate of registration for willful failure to comply with the registration requirements. We found that no enforcement actions were taken against the 52 Mexico-domiciled motor carriers for operating beyond their authority in states outside the southern border states.

We found that enforcement actions *within the border states* were few and penalties were not significant for operating authority violations. During FY 1998, there were approximately 24,000 safety inspections performed on drivers and/or vehicles of Mexico-domiciled motor carriers either at the border or within the border states. There were 65 enforcement actions on carriers operating without authority initiated at the U.S.-Mexico border. In FY 1998, only 3 enforcement actions were initiated against the 202 Mexico-domiciled motor carriers operating improperly within the border states, with 2 more actions taken against those carriers in FY 1999.

Actions for Operating Authority Violations Need to be Strengthened and Applied Consistently. While the Secretary of Transportation can revoke or suspend the operating authority of motor carriers or deny those carriers entry into the United States, no other immediate action is available for violations of operating authority uncovered during roadside inspections. When routine roadside inspections are performed within the States, the inspectors place motor carriers out of service for safety regulations. Currently, there is no "on the spot" roadside

remedy available for inspectors to place vehicles out of service when they are found operating without or beyond authority. Such an enforcement tool would enhance compliance and safety by all motor carriers, both domestic and foreign.

OMCHS officials were aware that, except for California, state inspectors in the border states were not reviewing the certificates of registration. California is the only border state that has statutes that pertain to the certificate of registration. In California, the penalty for not having a certificate of registration or operating beyond the commercial zone is \$1,000, with court costs of \$1,771 added by the presiding judge. In addition, the California Highway Patrol may impound vehicles. California, is the only state, including the 20 states outside the border states, where we found evidence of certificate of registration reviews. Further OMCHS took little action to ensure that other states enforced the operating authority requirements.

Initial fines imposed on Mexico-domiciled motor carriers for violating U.S. operating authority regulations range from \$500 to \$1,000. As such, motor carriers are likely to consider the fines to be a cost of doing business. For example, in August 1997, an enforcement violation was initiated against a Mexican motor carrier who was discovered beyond the commercial zone. It was determined that the carrier had operated 118 additional times beyond the commercial zone without authority, within a 4-month period. The carrier was charged with 20 violations and assessed a \$10,000 fine. A settlement agreement was negotiated with the carrier for \$3,250, and as of October 20, 1999, \$2,200 had been paid.

Enforcement actions and fines for Mexico-domiciled motor carriers violating operating authority regulations were not consistent. In Arizona and California, we found that the fine levied was \$500 per violation at the Federal level and the fine was not increased for repeat violators. However, in Texas and New Mexico the fine levied was \$1,000 at the Federal level and increased \$1,000 for each subsequent violation. OMCHS could not provide rationale for the disparity in the fines imposed on operating authority violations. However, the border states were aligned under two different resources centers that process the enforcement cases. As a minimum, the Federal penalties imposed on the Mexican motor carriers should be the same within the border states and it should be increased for repeat violators.

A Border Operations Unit is Needed. A separate border operations unit would ensure that all border operations are handled more effectively and efficiently. Additionally, the border program is very different from the traditional OMCHS field operation program. The border inspectors conduct vehicle and driver inspections, prepare different types of enforcement cases, and are involved in drug interdiction. The need for consistent policies and procedures among the border

states would justify placing the cross-border trucking program from all border states under one unit.

Insufficient Federal Inspectors and Inspections Facilities at the U.S.-Mexico Border

In a December 1998 report (TR-1998-034), we detailed the direct correlation between the condition of Mexican commercial trucks entering the U.S. commercial zones and the level of inspection resources at the border. California has the best inspection practices and the condition of Mexican commercial trucks entering at the Mexico-California border is much better than those entering at other border states. We recommended that OMCHS place up to 126 additional Federal inspectors and additional inspection facilities at the border to ensure motor carrier safety in the near term.

Since our report, portable buildings and computer equipment were provided to Texas border crossings. At some crossings, inspectors have limited space within the U.S. Customs Service buildings and limited access to communication lines. The Transportation Equity Act for the 21st Century (TEA-21) provided funds for state border and corridor grants (see discussion on future plans) to improve the safe movement of people and goods at ports on the U.S.-Mexico border.

In response to our recommendations, OMCHS recently added 26 temporary inspectors at Texas border crossings and 1 temporary inspector at a New Mexico crossing. There are no Federal inspectors assigned to California border crossings. We do not believe these 27 additional inspectors are adequate. Lack of sufficient inspectors and inspection facilities continues to contribute to the inability of the Federal Government to adequately address compliance with U.S. registration and safety requirements. We strongly support the congressional bills under consideration that call for additional border staffing.

Future Plans for Border Improvement

We identified facility and process improvement plans for Arizona, California, New Mexico, and Texas. The TEA-21 authorized funds for border improvements under the National Corridor Planning and Development Program and the Coordinated Border Infrastructure Program. Figure 2 shows the federal grants recently awarded to the southern border states.

Figure 2: FY 1999 State Border and Corridor Grants

Location	Project	Allocation
Nogales, Arizona	Site development work for commercial vehicle inspection and weighing	\$2.5 million
California	Coordinated study of feasibility of new border crossing, planning for port of entry improvements and planning for improving border transportation efficiencies in the vicinity of Mexicali and to improve border transportation system with Baja California.	\$340,000
El Paso County, Texas	Border station improvements at the International Bridge of the Americas in El Paso County.	\$2.4 million
Hidalgo, Texas (Port of Entry)	Construction of a safety inspection facility, a bus processing center, development of an electronic vehicle traffic management system, and related improvements at three border crossing locations.	\$1.9 million

In addition to the federal grants, the state of Texas has passed legislation to provide \$8 to \$9 million to construct and maintain one-stop border inspection sites in Brownsville, Laredo, and El Paso. The state of New Mexico is planning construction of a \$1 million inspection site to be located at the Santa Teresa border crossing.

Congressional Action to Improve Motor Carrier Safety

Congress is now considering several Motor Carrier Safety Bills, all of which support enhancement of safety regulations and more comprehensive oversight of motor carriers by the Department of Transportation. This legislation, when enacted, will bring about meaningful change to improve motor carrier oversight. Both the Senate (S.1501) and the House (H.R. 2679) bills propose a separate motor carrier agency within the Department of Transportation dedicated to truck and bus safety. These bills increase funding for Federal and State enforcement efforts, make important reforms to the commercial drivers license program, impose tough penalties for repeat violators and reform other Federal motor carrier laws by closing loopholes.

The House bill was amended on October 14, 1999, and contains the following provisions that address issues in this report:

- border staffing standard and funding,
- registration enforcement, which gives the Secretary authority to place vehicles out of service for registration violations,

- revocation of registration for motor carriers who fail to pay civil penalties,
- state cooperation in registration enforcement, and
- foreign motor carrier penalties and disqualifications for carriers operating outside the border zones along the U.S.-Mexico border. Penalties may be up to \$10,000 and carriers may be disqualified for 6 months, and with a pattern of intentional violations the penalty may be up to \$25,000 and disqualification may be permanent.

We endorse these congressional bills because they are essential for improving truck and bus safety. However, it is OMCHS who has responsibility to implement adequate processes to ensure compliance with U.S. statutes.

Recommendations

We recommend that the Director take the following actions to improve motor carrier safety:

1. Revise the current registration process to include the development of procedures to verify ownership and citizenship before motor carriers are granted operating authority and to establish a notification process for identifying those carriers whose authority has been suspended, revoked, or canceled to enforcement personnel.
2. Develop automated reports that periodically identify motor carriers operating without authority or beyond the scope of their authority, and ensure that these reports are scrutinized for appropriate enforcement action.
3. Investigate motor carriers identified as operating without authority and operating beyond the scope of their authority and take the necessary enforcement actions, including denying entry and suspending or revoking their operating authority.
4. Include language in the Motor Carrier Safety Assistance Program grants that links the receipt of Federal funds to a performance requirement for reviewing and enforcing operating authority.
5. Establish a border unit to ensure that consistent policies and procedures are established and implemented.

Management Position and Office of Inspector General Comments

We discussed our findings and recommendations with the Director of National and International Safety Programs in the new Office of Motor Carrier Safety. The Director generally concurred with our report and recommendations and stated that pending legislation would provide the office additional enforcement tools. The Office of Motor Carrier Safety will provide written comments to this report within 30 days.

Audit Objective, Scope, Methodology, and Prior Audit Coverage

The audit objective was to evaluate the adequacy of Federal Highway Administration's (FHWA) Office of Motor Carrier and Highway Safety (OMCHS) oversight of Mexico-domiciled motor carriers operating in the United States. Specifically, we examined:

- the statutory authority of Mexico-domiciled motor carriers to operate outside the commercial zones,
- the safety violations of Mexico-domiciled motor carriers cited during roadside inspections conducted beyond the four southern border states, and
- the enforcement actions against Mexico-domiciled motor carriers who operated beyond the four border states, and the future plans by governmental entities to monitor the operations of Mexico-domiciled motor carriers operating outside the commercial zones.

We conducted the audit at the request of the Ranking Democratic Member of the House Committee on Transportation and Infrastructure who expressed concern about Mexico-domiciled motor carriers operating outside the southern border states.

We obtained an electronic copy of FHWA's Motor Carrier Management Information System (MCMIS) database files (December 2, 1998) and used the files to identify Mexico-domiciled motor carriers inspected outside the four southern border states during FYs 1994 through 1998. We limited our detailed review to the 68 Mexico-domiciled motor carriers identified in MCMIS as having had roadside inspections performed on their drivers and vehicles during FY 1998 in states other than the 4 southern border states.

Using the electronic database files, we matched the 68 motor carriers to 100 roadside safety inspections reported by state inspectors. We analyzed inspection reports and other MCMIS data to identify data errors, safety violations, out-of-service rates, and cargo being transported. We also reviewed the motor carrier files maintained by the Licensing and Insurance Division of Office of Motor Carrier and Highway Safety to determine whether operating authority had been granted, whether the documentation supported the authority granted, and the

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scope of the authority granted. When files or source documents were not available, we sent letters to the motor carriers, carriers' representatives, and owners of record requesting copies of source documentation to verify operating authority and ownership. We reviewed the roadside inspection database for violations reported and the Insurance and Licensing database for operating authority for motor carriers operating beyond the commercial zones but within the border states.

We interviewed OMCHS officials in Headquarters and field locations to determine their position on enforcing the operating authority of these carriers and on ensuring that states enforced the operating requirements. We obtained a listing of all enforcement cases for FYs 1998 and 1999 to determine the number of actions taken for violations of operating authority and the penalties assessed. Additionally, we visited 14 border crossings in the 4 border states to observe procedures used to inspect Mexican carriers, verify carrier operating authority, confirm actions taken when carriers did not have operating authority, and obtain information concerning border crossing hours of operation, resources, and facilities.

We visited and telephoned State officials to determine States officials' positions on enforcing operating authority requirements. We determined whether States had initiated legislation to penalize Mexican carriers operating without authority or operating beyond their authority.

We reviewed applicable public laws and Federal regulations. However, we did not verify the accuracy of FHWA's database, the roadside inspection results reported by FHWA and the States, and the border crossing data obtained from the U.S. Customs Service. The audit was conducted from July 1999, through October 1999, in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. Exhibit B lists the activities we visited or contacted during the audit.

Prior Audit Coverage

Office of Inspector General, Motor Carrier Safety Program for Commercial Trucks at U.S. Borders (Report No. TR-1999-034)

The Office of Inspector General (OIG) issued Audit Report No. TR-1999-034 in December 1998; Motor Carrier Safety Program for Commercial Trucks at U.S. Borders. The audit objective was to determine whether FHWA had plans to

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accomplish inspections or otherwise ensure that commercial trucks entering the United States were safe and drivers were qualified. The audit concluded that greater involvement and leadership from the Federal level was needed to implement NAFTA's cross-border trucking provisions and to ensure that safety was not compromised. In the near term, additional inspectors and inspection facilities were needed at the Mexican border to establish sufficient safeguards for truck safety.

The OIG made recommendations to the Office of the Secretary and FHWA to: (i) expedite the process for issuing and finalizing the proposed rule changes for granting Mexican motor carriers operating authority under NAFTA, and oversight of such authority; (ii) develop a Department of Transportation identification number that will distinguish between Mexican trucks granted authority to conduct long-haul operations and those restricted to commercial-zone operations; (iii) establish partnerships with the border States to ensure the requisite inspection presence is maintained at the border and throughout the States to ensure highway safety; (iv) establish a NAFTA Program Director position that includes decision-making authority and responsibility for managing a consistent cross-border traffic management program from State to State with the requisite resources to effectively carry out the responsibilities; and (v) establish and lead a Federal interagency group to coordinate organizational policies, processes, and procedures that will enhance and expedite traffic flows at the southern border.

Additionally, to address resource issues, the OIG recommended that FHWA: (vi) allocate the funds needed to adequately staff the border-crossing alternative (selected by the Secretary) during the hours crossings are open to commercial trucks, and provide inspectors with needed inspection facilities, including communication lines and computer equipment that will enable inspectors to directly access FHWA safety data files; and (vii) adopt Alternative II or III contained in our report to supplement the border States with the requisite inspectors at border crossings. FHWA's response did not satisfactorily address our recommendations regarding staffing of inspectors at border crossings. The response proposed deploying 27 inspectors in Texas, but did not address border crossings in Arizona, California, and New Mexico. The 27 inspectors represent only 53 percent of the minimum number recommended by the OIG for Texas.

Activities Visited or Contacted

United States Department of Transportation

Federal Highway Administration

Office of Motor Carrier and Highway Safety – Headquarters
(Washington, D.C.) and State Offices (Arizona, California, New
Mexico, and Texas)

Other Federal Agencies

U.S. Customs Service

Management Center (El Paso, and Laredo, Texas)
Border Offices (Nogales, Arizona; Otay Mesa, California; Santa Teresa,
New Mexico; and Brownsville, El Paso, Laredo, Los Indios, Pharr,
Progresso, Rio Grande City, and Roma, Texas)

State Officials

Arizona Department of Public Safety - Special Services Division
Arizona Department of Transportation, Motor Vehicle Enforcement Division
Arkansas Highway Police
California Highway Patrol
Colorado State Police – Motor Carrier Safety Section
Florida Department of Transportation – Motor Carrier Compliance
Illinois Office of the Secretary of State - Vehicle Services Department
Illinois State Police – Commercial Vehicle Enforcement Section
Indiana State Police – Commercial Vehicle Enforcement Division
Iowa Department of Transportation – Motor Vehicle Enforcement Office
Kansas Highway Patrol – Motor Vehicle Enforcement Troop
Kentucky Transportation Cabinet – Division of Vehicle Enforcement
Louisiana Office of State Police – Motor Carrier Safety Assistance Program
Maryland State Police – Motor Carrier Safety Assistance Program
Mississippi Public Service Commission – Motor Carrier Division
Missouri State Highway Patrol – Commercial Vehicle Enforcement Division
Montana Highway Patrol – Motor Carrier Safety Division
Nevada Highway Patrol – Department of Motor Vehicles and Public Safety
New Jersey State Police – Compliance and Enforcement Unit

Activities Visited or Contacted (cont'd)

State Officials (Cont'd)

New Mexico Department of Public Safety – Motor Transportation Division
New York Department of Transportation – Motor Carrier Safety Bureau
North Dakota Highway Patrol – Motor Carrier Safety Division
Ohio State Highway Patrol – Motor Carrier Enforcement Division
Oklahoma State Highway Patrol – Troop S, Commercial Vehicle Enforcement
Oregon Department of Transportation – Motor Carrier Transportation Division
Pennsylvania Department of Transportation – Motor Carrier Enforcement Unit
South Dakota Highway Patrol – Motor Carrier Enforcement
Texas Department of Transportation
Texas Department of Public Safety
Washington State Patrol – Commercial Vehicle Enforcement Section
Wyoming Highway Patrol – Motor Carrier Division

Border Crossings Visited

Brownsville, Texas
El Paso, Texas (Bridge of the Americas and Yselta)
Hidalgo, Texas
Laredo, Texas
Laredo-Columbia, Texas
Los Indios, Texas
Nogales, Arizona
Otay Mesa, California
Pharr, Texas
Progresso, Texas
Rio Grande City, Texas
Roma, Texas
Santa Teresa, New Mexico

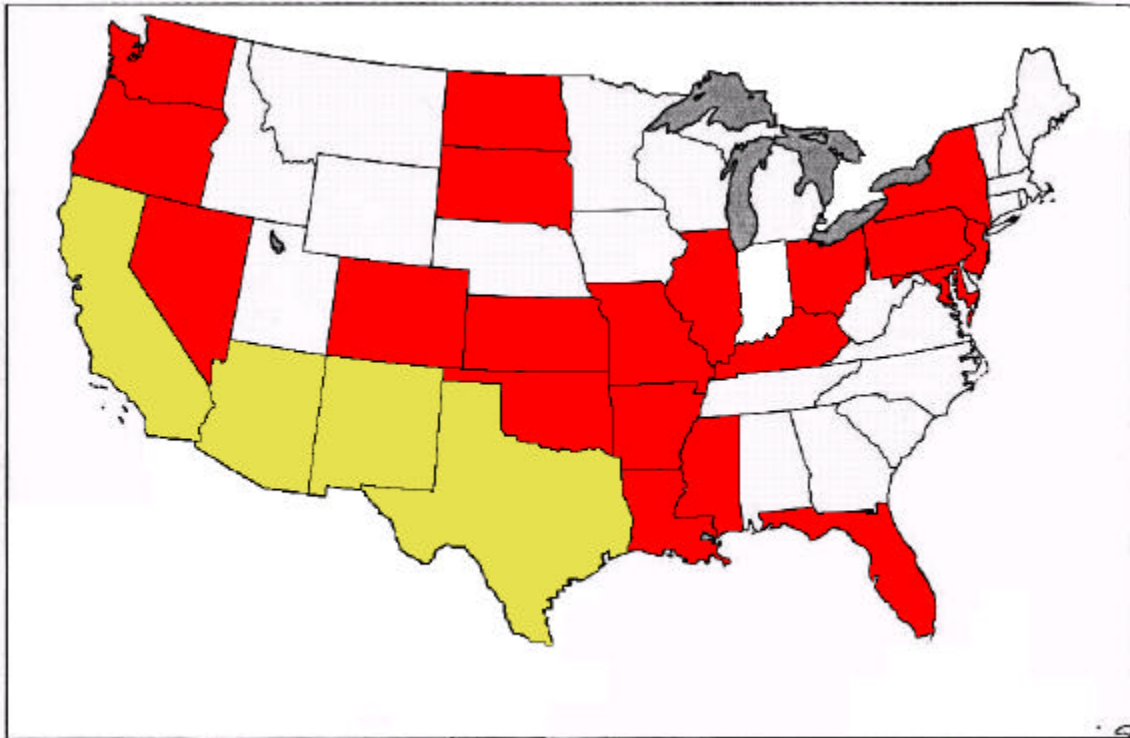
Associations and Alliances

International Registration Plan, Inc.

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Map of States Where Roadside Inspections Were Performed

The following map highlights the four southern border states in yellow where the Mexico-domiciled motor carriers enter the United States. The 20 states highlighted in red indicate the states where the 66 roadside safety inspections were performed on vehicles and drivers of the 52 Mexico-domiciled motor carriers improperly operating outside the 4 southern border states.



Safety Violations Cited and Cargo Transported

The 66 roadside safety inspections for the 52 Mexico-domiciled motor carriers were conducted as follows: 26 percent at level I inspections, 53 percent at level II, and 21 percent at level III. Figure 1 shows the number of drivers and the number of vehicles cited for safety violations during these roadside inspections.

Figure 1: Number of Violations per Driver and Vehicle

Results of Inspection	Number of Inspections
No Violation for driver or vehicle	10
Violations cited for driver and vehicle	23
Violations cited driver only	15
Violations cited vehicle only	18
Total	66

Source: MCMIS roadside inspection database.

Figure 2 shows the number of violations that were cited four or more times.

Figure 2: Repeat Safety Violations

Federal Safety Violation	Violation Description	Number of Citations
396.3A1BA	Brake-out of adjustment	17
393.11	Defective lighting devices and reflectors	15
392.2	Applicable operating rules	15
393.9	Inoperative lamp (other than head/tail)	13
390.21(a)	Inadequate marking of commercial vehicles	11
393.75(c)	Insufficient tire tread depth	11
393.45(a)(4)	Inadequate brake tubing and hose	10
396.11	No driver vehicle inspection report	10
396.17(c)	Operating a CMV without periodic inspection	10
395.8(f)(1)	Drivers record of duty status not current	8
393.95(a)	No/discharged/unsecured fire extinguisher	7
391.41(a)	No medical certificate on driver's possession	7
395.8	Driver log violation	6
395.8(k)(2)	Failed to retain 7 previous days of duty status	5
392.2S	Local law/speeding	4
392.2W	Local law/size and weight	4
396.3(a)(1)	Inspection/repair & maintenance	4
393.40	Inadequate brake system on a CMV	4
393.25(f)	Stop lamp violations	4
393.60(b)	Damaged or discolored windshield	4

Source: MCMIS roadside inspection database.

The violations refer to Sections in Title 49 Code of Federal Regulations.

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Drivers and vehicles are placed out of service based on the nature of the safety violation cited. Of the 66 roadside inspections, 11 drivers were put out of service and 10 vehicles were put out of service. Figure 3 shows the safety violations cited when a driver or vehicle was put out of service.

Figure 3: Out-of-Service Violations

Federal Safety Violation	Violation Description	Number of Citations
396.3A1BA	Brake-out of adjustment	3
393.48(a)	Inoperative/defective brakes	2
383.23A	Operating a CMV without a CDL	2
393.205(c)	Wheel fasteners loose and/or missing	2
393.25(f)	Stop lamp violations	2
395.8(k)(2)	Driver failing to retain previous 7 days logs	2
391.11(b)(7)	No or invalid CMV driver's license	1
391.15(a)	Driver disqualified	1
392.2	Applicable operating rules	1
392.2OT	Local law/other moving violation	1
392.2W	Local law/size and weight	1
392.9	Vehicle load not secure	1
393.102	Improper securement or tiedown assemblies	1
393.75(a)	Flat tire or fabric exposed	1
393.75(a)(3)	Tire-ply and/or audible air leak in tire	1
395.3(b)	Violation of hours allowed to drive	1
395.8	Log violation (general/form & manner)	1
395.8(a)	No drivers record of duty status	1
395.8(e)	False report of drivers record of duty status	1
395.8(f)(1)	Drivers record of duty status not current	1
395.8K3	Failed to retain 7 previous days of duty status	1
396.3(a)(1)	Inspection/repair & maintenance	1

Source: MCMIS roadside inspection database.

The violations refer to Sections in Title 49 Code of Federal Regulations.

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Our analysis of the 66 inspection reports showed that 14 vehicles were “empty”, 27 reports did not indicate the cargo, and the remaining 25 inspection reports showed the cargo identified in Figure 4.

Figure 4: Cargo Transported

Cargo		
Auto Parts	Furniture	People
Automobiles	General Freight	Pottery
Construction Supplies	Metal Blinds	Scrap Iron
Empty Bottles	Metal Sheets, Coils	Steel Piping
Farm Equipment	Onions	Tile/Stones
Food Stuffs	Paper	Trees