

Before the Committee on Commerce, Science and Transportation

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Motor Carrier Safety at the U.S.-Mexico Border

**Statement of
The Honorable Kenneth M. Mead
Inspector General
U.S. Department of Transportation**



Mr. Chairman and Members of the Committee:

We appreciate the opportunity to testify on motor carrier safety at the U.S.-Mexico border. Since 1998 we have issued three reports dealing with the Department of Transportation's efforts to improve safety at the border. Our statement today is based on those reports and our ongoing work, and focuses on the (1) current safety conditions at the southern border, and (2) actions the Department needs to take to implement a comprehensive safety strategy for the southern border.

What we have seen from our work -- that includes visits to all 27 commercial border crossings -- is a need to strengthen safety controls at the southern border. (Exhibit A, page 19, for a map and listing of the border crossings). During fiscal year (FY) 2000, 37 percent of the Mexican trucks inspected were placed out of service because they had serious safety violations. (Exhibit B page 20, for a listing of out-of-service rates by crossing)

The United States has made improvements in its inspection presence and controls, and Mexico has made progress in establishing safety oversight requirements. However, it is clear, that additional actions are needed to reasonably ensure the safety of commercial vehicles and drivers as they enter at the southern border, operate within the commercial zones, and traverse the United States.

Specific actions that need to be taken include:

- Placing inspectors at all commercial border crossings during all operating hours. There is a direct correlation between the condition of Mexican trucks entering the United States and the level of inspection resources at the border.

- Performing (1) safety reviews *before* granting Mexican-domiciled carriers conditional authority to go into the interior of the United States, and (2) inspecting all long-haul vehicles and drivers *before* they enter and operate in the United States. (Long-haul vehicles are those authorized to travel beyond the U.S. commercial zones.)
- Taking firm enforcement actions against carriers that do not comply with U.S. safety regulations, and authorizing States to place vehicles out of service for operating beyond authority or without authority.
- Providing adequate facilities to conduct inspections and place unsafe vehicles out of service.
- Revising the recently issued proposed rulemakings on application procedures and a monitoring system to require safety reviews and physical inspections of trucks and drivers before they operate in the United States, and issuing the final rules.
- Conducting workshops and outreach sessions to provide information to potential applicants on U.S. procedures and safety regulations.

In the course of developing the Department's plans for implementing the North American Free Trade Agreement's (NAFTA) provisions, the Office of the Secretary, Federal Motor Carrier Safety Administration (FMCSA), and Office of Inspector General have held extensive discussions about our work and the elements of a comprehensive safety strategy. We understand the Department is committed to incorporating substantially all of the actions discussed above into its safety strategy. This would include placing inspectors at all border crossings during all operating hours, safety reviews, and physical inspection of trucks and drivers desiring to operate in the United States beyond the commercial zones. We endorse this approach and believe, when implemented, it will provide a more solid predicate for ensuring the safety of Mexican trucks and drivers operating in the United States.

The key to the effectiveness of the safety strategy will then be in implementation of the details, including deploying sufficient inspectors, performing thorough safety reviews and inspections, and taking firm enforcement action against carriers that do not comply with U.S. safety regulations. We will continue to audit and monitor the Department's progress in developing and implementing its safety strategy.

The actions needed to support the Department's safety strategy will also require funding. The Administration requested \$88.2 million in additional funding for FY 2002 to facilitate implementation of NAFTA cross-border trucking provisions. The FY 2002 Transportation Bill approved by the House of Representatives does not provide additional funds for this purpose, while the Bill approved by the Senate Appropriations Committee provides \$103 million in additional funding.

It is important to note that we should not let the current focus on Mexican commercial vehicles obscure the need to continue to improve the safety of U.S. trucks and drivers. In 2000, more than 5,300 people died in truck crashes in the United States. This equates to a major airline crash with 200 fatalities every 2 weeks. Also, in the United States, one out of every four trucks inspected at a roadside stop is placed out of service for safety violations. In FY 2000, 9,900 (2 percent) of the 560,000 interstate motor carriers operating in the United States had an unsatisfactory safety rating. Moreover, 426,000 (76 percent) of the interstate motor carriers had not been subjected to a compliance review by FMCSA and were operating without a safety rating.

The Motor Carrier Safety Improvement Act of 1999 established FMCSA and set *safety* as its highest priority. FMCSA has made progress in increasing the number of compliance reviews, increasing civil penalties for noncompliance, and shutting down unsafe carriers. It is important that this level of emphasis be sustained domestically.

Current Safety Conditions at the Border

The out-of-service rate for Mexican trucks is declining. We determined that 37 percent of the Mexican trucks inspected in FY 2000 were removed from service because of serious safety violations. This represents an improvement from FY 1997 when 44 percent of the Mexican trucks inspected were removed from service. The out-of-service rate for U.S. trucks inspected nationwide in FY 2000 was 24 percent.

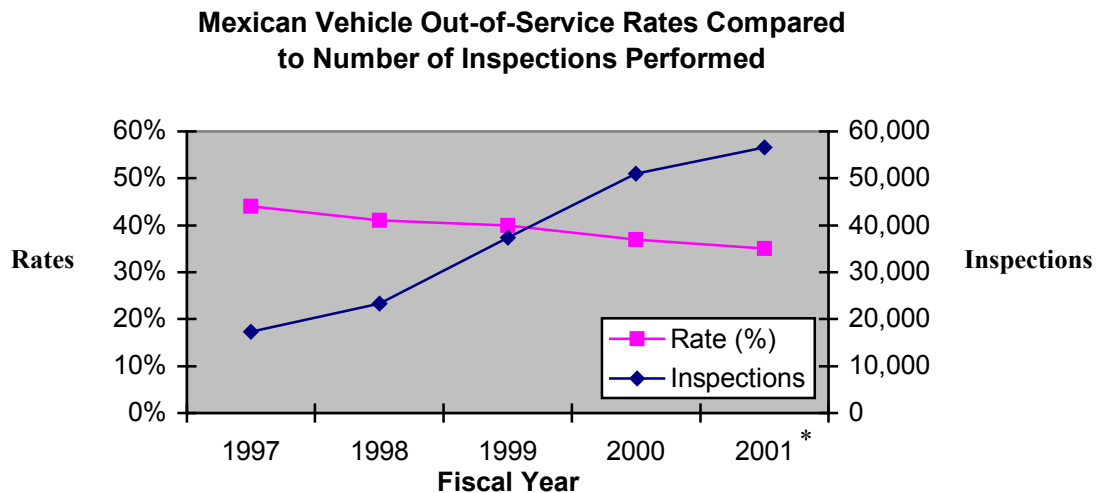
Available data also show that Mexican drivers were placed out of service at the same rate -- 8 percent -- as U.S. drivers nationwide during FY 2000. However, these data may not be comparable because U.S. inspectors at the border crossings did not have the capability to verify that Mexican Commercial Drivers Licenses (CDLs) were current and authentic during FY 2000. That capability is now available so data obtained in FY 2001 should provide a comparable basis for driver out-of-service rates.

NAFTA countries agreed to use standards established by the Commercial Vehicle Safety Alliance (CVSA) that include minimum safety requirements and criteria for placing trucks and drivers out of service for noncompliance. In the United States, Federal and State safety inspectors perform vehicle inspections using CVSA criteria. A vehicle receives a CVSA decal when it passes a Level 1 inspection --

the most rigorous involving a physical inspection of the truck's compliance with all safety requirements. The decal is valid for 3 months.

Trucks are put out of service for a variety of serious safety violations, including inoperative and defective brakes, defective frames and steering systems, and bad tires. Truck drivers are placed out of service because they do not have valid CDLs, are not in compliance with hours-of-service rules, or do not have logbooks to document the number of hours they were on duty.

There is a direct correlation between the condition of Mexican trucks entering the United States and the level of inspection, resources at the border. That is, the more likely the chance of inspection the better the condition of the vehicle. As the following chart illustrates, out-of-service rates at the border have declined as the number of inspections performed increased.



*Annualized based on June 2, 2001

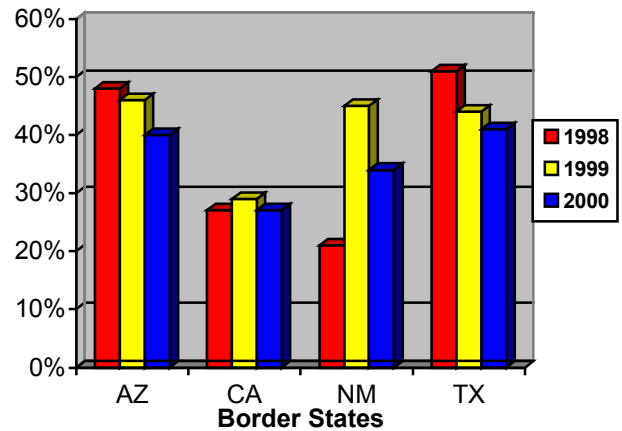
California has an inspection presence during all operating hours at its two major crossings and inspects each commercial truck that does not have a current CVSA inspection decal. Consequently, the condition of the Mexican trucks entering at the Mexico-California border is much better than those trucks entering through all other border States that do not have an inspection presence during all operating hours.

For example, during FY 2000, the out-of-service rate for Mexican trucks inspected in California was 27 percent. This compares to out-of-service rates of 40, 34, and 41 percent in Arizona, New Mexico, and Texas, respectively. During this same timeframe, the range of the out-of-service rates varied

significantly among the border crossings, from 24 percent in Otay Mesa, California, to 50 percent at the Bridge of the Americas in El Paso, Texas.

Exhibit B shows the out-of-service rates for the last two fiscal years at each of the southern border crossings.

Mexican Vehicle Out-of-Service Rates



Until Mexico fully implements safety requirements and an oversight program, the United States will need to have sufficient controls in place to ensure the safety of Mexican trucks and drivers entering and operating in the United States. At this time, there are some outstanding questions about the workload this will generate. These questions include how many Mexican carriers will apply for long-haul authority, where the carriers are located, and which and how many trucks they will operate in the United States.

It is a matter of speculation as to how many carriers will want to operate long-haul vehicles in the interior of the United States beyond the commercial zones. This decision will be affected by a number of factors, including economic conditions and the need to comply with U.S. safety regulations. While all carriers are not likely to apply, available information shows that the number of carriers that could seek to operate in the interior could vary significantly. For example:

- 10,000 Mexican carriers currently have authority to operate in the United States.
- 4,750 Mexican carriers had vehicles inspected at the southern border in FY 2000.
- 1,500 of the 4,750 Mexican carriers with vehicles inspected at the border came from States south of Mexico's border States, primarily from the Mexico City area.
- Over 70,000 Mexican carriers are domiciled in Mexican States away from the border States.

Regarding the number of trucks, a September 20, 2000 FMCSA report estimated that about 80,000 trucks were operating at the U.S.-Mexico border and that 63,000 trucks were from Mexico. One analysis used to make the 63,000 estimate relied on 1998 data for the total number of trucks registered in Mexico. However, in 1999, the number of registered Mexican trucks grew by 18 percent, and indications are that this trend is continuing. This would mean that the number of Mexican trucks operating at the border could range from 63,000 to 89,000 trucks. Our analysis showed that 26,600 Mexican trucks were inspected at least one time at the border during FY 2000.

Actions the Department Needs to Take to Implement a Safety Strategy for the Southern Border

Our work points to the need to strengthen controls at the southern border in order to provide reasonable assurance of the safety of Mexican trucks and drivers operating in the United States. The Department recognizes the need to strengthen controls and is developing a safety strategy. In the near term, developing an inspection capability that includes providing inspectors and inspection facilities at the border crossings, and using that capability to enforce compliance with U.S. safety regulations are key to ensuring the safety of Mexican trucks and drivers.

In this regard, there are *six areas* that will need to be addressed in the near term as part of the safety strategy. They are: *Staffing, Safety Reviews and Inspections, Enforcement, Facilities, Rulemakings, and Outreach*. We believe these are strong elements that would enhance the Department's safety strategy, facilitate the implementation of NAFTA's provisions, and ensure the safety of Mexican trucks and drivers operating in the United States.

1. Staffing. Deploying additional onsite inspectors during all operating hours at all southern border crossings.

Currently, inspectors are not on duty at all border crossings during all hours of operation. In 1998, we estimated that 139 inspectors were needed to provide sufficient coverage at all crossings during operating hours. FMCSA increased the authorized number of inspectors at the southern border from 13 in FY 1998 to 60 in FY 2001. Currently, 58 of the 60 authorized positions are filled. The following chart shows, by border State, the number of Federal inspectors onsite and the number we estimated was needed.

**Federal Inspectors at the U.S.-Mexico Border
as of July 2001**

State	Border Crossings	Out-of-Service Rate FY 2000 (%)	Truck Crossings in FY 2000	Number of Federal Inspectors Assigned	Total Number of Federal Inspectors Recommended *
<i>Arizona</i>	6	40	347,466	7	18
<i>California</i>	4	27	1,028,020	0	16**
<i>New Mexico</i>	2	34	35,910	1	6
<i>Texas</i>	15	41	3,133,619	50	99
Totals	27	37	4,545,015	58	139

*"Motor Carrier Safety Program for Commercial Trucks at U.S. Borders," Report Number TR-1999-034, December 28, 1998.

**To place inspectors at two border crossings during all operating hours, to add inspectors to verify commercial drivers, and to perform inspections on passenger buses and drivers.

The Administration's budget request for FY 2002 includes \$13.9 million to hire 80 additional enforcement personnel for the southern border. Deploying the additional 80 enforcement personnel at the border would bring the total number of authorized Federal inspectors there to 140, and be responsive to our 1998 recommendation. However, over time the requirement for Federal inspectors to be physically located at the border crossings is likely to change if the States establish permanent inspection facilities and increase their inspection staffs.

The Department is developing a deployment plan for these 80 enforcement personnel as part of its safety strategy. If the 80 enforcement personnel are not deployed onsite at the border in the near term, sufficient inspectors will not be in place at all border crossings during hours of commercial vehicle operations except for two of California's crossings. We will be monitoring the development of the

Department's deployment plan for the 80 enforcement personnel as well as the actions taken by the States.

2. ***Safety Reviews and Inspections.*** *Performing safety reviews before granting conditional authority to operate in the United States, and inspecting all long-haul vehicles and drivers before or as they enter the United States.*

Safety reviews should be performed and successfully completed before conditional authority is granted to new entrant carriers. At least initially, the Department will need to decide on a case-by-case basis whether safety reviews should be performed onsite at the applicant carrier's location to: verify the accuracy of safety performance data and required safety management programs (including drug and alcohol testing, driver qualifications, and driver's hours-of-service), inspect vehicles, and ensure applicants are knowledgeable of U.S. safety regulations. The decision on where safety reviews should be performed will depend on the availability and quality of the applicant's safety performance data. Also, inspecting vehicles onsite during a safety review would reduce the impact on traffic congestion of performing vehicle safety inspections at the border.

Because the long-haul carriers are new entrants, their vehicles should be inspected as they enter the United States unless they have a current CVSA inspection decal indicating that the vehicle has passed a U.S. inspection within the preceding

3 months. Long-haul drivers should be inspected at the border to verify they have a valid CDL, a logbook, and that they are in compliance with hours-of-service rules. For inspectors to readily identify long-haul vehicles, vehicles should be assigned identification numbers that distinguish them from vehicles authorized to operate only in commercial zones.

The Motor Carrier Safety Improvement Act of 1999, Section 210, specifies that new entrant requirements shall apply to all motor carriers, domestic and foreign. The new entrant requirements call for safety reviews to ensure applicant carriers are knowledgeable about Federal Motor Carrier Safety Regulations. FMCSA has not yet implemented Section 210 of the Act for U.S. carriers. It is important that this be done for safety reasons and to provide evenhanded treatment for U.S. and Mexican carriers.

Passenger buses also receive access to the United States under NAFTA. During FY 2000, there were only 100 passenger buses inspected at southern border crossings. However, the U.S. Customs Service reports that about 300,000 bus crossings occurred at the border during FY 2000, and 80 percent of those were at 3 ports of entry: San Diego, California, and Laredo and Hidalgo, Texas. Inspections of buses and drivers should also be part of the Department's safety strategy.

3. ***Enforcement.*** *Implementing procedures for monitoring the safety performance of new entrants with conditional authority and taking firm action against those carriers that do not comply with safety regulations and those that evade the safety net and enter the United States without authority.*

Effectively enforcing safety regulations requires a system that tracks a carrier's safety performance and triggers action for noncompliance with U.S. safety regulations. These triggers should initiate the issuance of deficiency letters and suspension notices of U.S. operating authority. This will be particularly important during the 18-month period when new entrants are operating under conditional authority. FMCSA's proposed rulemaking defines the 18-month conditional period as a time of enhanced safety oversight for new entrants. At the end of the 18-month period, the conditional authority would become permanent if a carrier's most recent safety review is satisfactory.

A key element of FMCSA's ability to take firm enforcement action is a system that provides good safety performance data and allows inspectors immediate access to those data. To accomplish this, FMCSA is developing a single access system that will provide inspectors information from FMCSA and Mexican databases on carrier safety performance. FMCSA needs to ensure the system is completed and deployed by the end of 2001 as currently scheduled.

Strong enforcement will be needed for the minority of carriers that are egregious offenders and a risk to public safety. The Motor Carrier Safety Improvement Act of 1999, Section 219, provided fines and disqualification sanctions for Mexican carriers operating without authority or beyond their authority in the United States. The fines range from \$10,000 to \$25,000. However, the Act's provision has not been implemented, and this provision will expire when NAFTA cross-border trucking provisions are implemented. A comparable provision will have to be carried over to deal with carriers operating beyond or without authority in the United States.

In 1999, we reported that 52 Mexico domiciled 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. These carriers were operating beyond authority or without authority. Our ongoing work shows this problem continues. Data on FY 2000 roadside inspections throughout the United States show that 56 Mexican carriers operated *improperly* in 25 states outside the 4 border States.

Also, FMCSA has not issued an order on enforcement of registration requirements provided in Section 205 of the Motor Carrier Safety Improvement Act of 1999. This order would give the States the authority to place vehicles out of service if found operating without authority or beyond the scope of authority granted.

FMCSA needs to take swift action to give States the authority to enforce the operating authority requirements.

*4. **Facilities.** Obtaining available land at southern border crossings to provide inspectors space and facilities needed to safely perform inspections and park vehicles placed out of service.*

Currently, the only permanent inspection facilities at the U.S.-Mexico border are the State facilities in Calexico and Otay Mesa, California. Construction is underway for two permanent State inspection facilities in Santa Teresa, New Mexico, and Nogales, Arizona. Both of these facilities will be adjacent to the U.S. Customs Service port of entry lots.

At the 25 border crossings where permanent facilities are not available, Federal and State inspectors work within the U.S. Customs Service's port of entry lots. FMCSA has provided portable buildings at eight of these crossings. At 19 of the 25 crossings, FMCSA inspectors have space to inspect only 1 or 2 trucks at a time, and at 14 crossings have only 1 or 2 spaces to park vehicles placed out of service. It takes at least 2 years to get permanent inspections facilities built. In the near term, FMCSA must secure additional space at the border crossings to safely perform inspections and place vehicles out of service.

Not all of the space requirements can be easily addressed because land is not readily available at all border crossings. However, we contacted the General Services Administration (GSA) and found that land is available on or adjacent to the U.S. Customs Service port of entry lots at 16 border crossings. Although other Federal agencies have long-term plans for using most of this available land, many of the plans are not yet funded. For example, at the Pharr border crossing, with about 370,000 truck crossings in FY 2000, there are 14 acres in GSA's inventory for which there are no currently funded plans.

FMCSA may be able to obtain agreements to use available land in the near term without impacting other Agencies' long-term plans for the space. Resolving the space issue will likely require high-level attention because it will involve extensive coordination with other Federal agencies, tenants, and lessors.

5. Rulemakings. *Revising the recently issued proposed rulemakings on application procedures and a monitoring system to require safety reviews and physical inspections of trucks and drivers before they operate in the United States, and issuing the final rules.*

Two proposed FMCSA rulemakings establish new application procedures for Mexican carriers seeking new operating authority beyond and within the commercial zones, and require carriers to provide detailed information about their

safety practices and to self-certify compliance with U.S. safety regulations. A third rulemaking proposes implementing a safety monitoring system to determine whether Mexican carriers operating in the United States comply with safety regulations.

FMCSA issued the three Notices of Proposed Rulemaking on May 3, 2001. The period for public comment on the proposed rules closed on July 2, 2001, and FMCSA plans to finalize the rules by the end of October 2001. However, the rulemakings will need to be revised to incorporate changes that are made as the Department develops its safety strategy. For example, the existing proposed rules do not include requirements that a safety review be completed before conditional operating authority is granted, or that long-haul vehicles and drivers be inspected before they enter and operate in the United States.

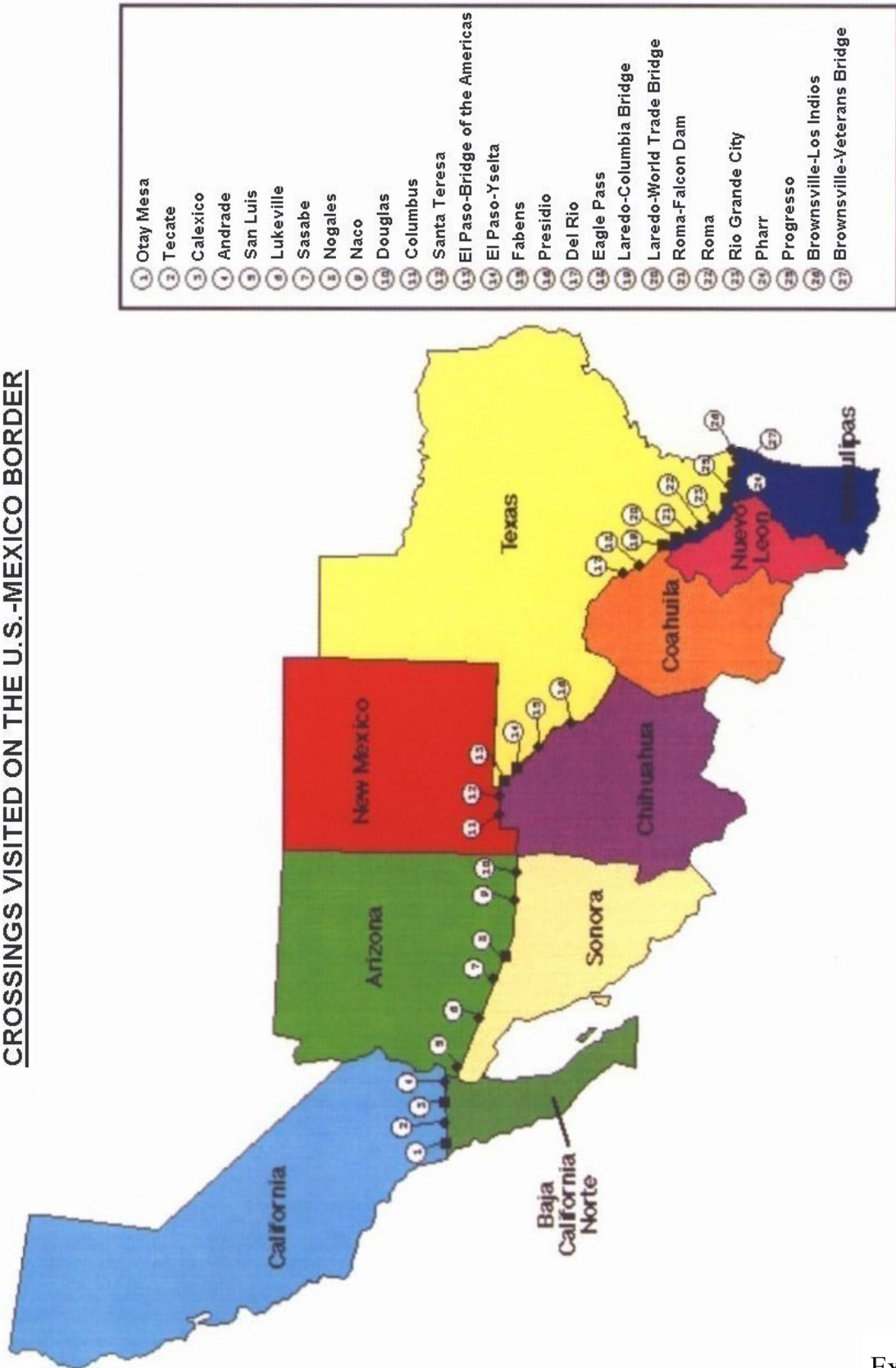
One of FMCSA's proposed rulemakings requires carriers currently operating within the commercial zones to reapply for operating authority under the "new entrant" program. Under the Motor Carrier Safety Improvement Act, the "new entrant" provision applies to carriers seeking "new" authority, not those with existing authority. In the near term, FMCSA may be able to reduce its workload by focusing its efforts on carriers that are truly new entrants in that they do not have authority to operate in the United States at all.

6. Outreach. *Conducting workshops and outreach sessions to provide potential applicants with guidance on how to complete applications, which should result in more complete and accurate applications and facilitate timely processing.*

FMCSA's strategy includes provisions to sponsor eight 1-day workshops that provide an overview of the Federal safety rules and the border States' rules. This would also help provide the target audience for the workshop and show motor carriers how to apply for operating authority. These workshops should provide excellent opportunities for the Mexican carriers and FMCSA to benefit from an exchange of information. The limitation we see at this time is the plan to conduct these workshops before finalizing the rulemakings covering the application processes and the monitoring system.

Mr. Chairman this concludes our prepared remarks. We would be pleased to answer any questions.

CROSSINGS VISITED ON THE U.S.-MEXICO BORDER



Out-of-Service Rates for Mexican Trucks by Border Crossing

Location	FY 2000 Truck Crossings	FY 1999 Out-Of-Service Rate (%)	FY 2000 Out-of-Service Rate (%)
California:			
Otay Mesa	683,703	26	24
Tecate *	61,707	*	*
Calexico	281,032	35	38
Andrade *	1,578	*	*
Other *		34	31
California Total	1,028,020	28	27
Arizona:			
San Luis	41,522	44	31
Lukeville *	3,887	*	*
Sasabe	2,775	*	*
Nogales	258,201	47	40
Naco	8,293	*	*
Douglas	32,788	50	53
Other *		34	29
Arizona Total	347,466	47	40
New Mexico:			
Columbus	4,892	*	40
Santa Teresa	31,018	45	33
Other *		44	36
New Mexico Total	35,910	45	34
Texas:			
El Paso - BOTA	725,064	61	50
El Paso Ysleta		44	46
Fabens	198	**	**
Presidio	9,051	*	*
Del Rio	61,018	42	28
Eagle Pass II	107,540	*	55
Laredo-Columbia	1,502,978	54	47
Laredo-World Trade Bridge			46
Laredo Bridge II		48	34
Roma Falcon	14,551	**	**
Roma		*	28
Rio Grande City	22,793	35	39
Pharr	367,217	56	42
Progreso	11,401	48	32
Brownsville- Los Indios	311,808	40	43
Brownsville- Veterans		43	42
Other *		40	37
Texas Total	3,133,619	44	41
Summary			
	4,545,015	40	37

* FMCSA's automated inspection file as of March 2000, does not specify which border crossing. Therefore, there is not a rate for this crossing. However, inspections were performed within the commercial zone and the rate is shown under "other."

** Customs officials stated that small pickup trucks and vans carrying goods enter at these two crossings. Also, these bridges have weight limitations of 50,000 and 58,420 pounds, respectively.