

At no time will a PASA be converted to a compliance review (CR) based on “initiating violations” identified in the eFOTM question and answer sections. If any “initiating violation” is discovered, the auditor will complete the PASA with no indication to the motor carrier that an “initiating violation” was detected. Copies of records utilized to identify the violation(s) and documentation of examples of the initiating violation(s) **must** be made. A certified safety investigator will be assigned to conduct a follow up compliance review. **Such compliance review will be conducted in accordance with established FMCSA policy and eFOTM procedures.**

At no time will the auditor inform the motor carrier whether they passed or failed the PASA. Official notification will be made to the carrier from FMCSA-Headquarters.

2. Completing Part A of the Audit

Mileage - For motor carriers that have not begun operations, auditors should enter zero for mileage. For motor carriers that currently operate in the commercial zone, auditors should follow eFOTM guidelines.

Gross Revenue - For motor carriers that have not begun operations, auditors should enter zero.

Equipment - Auditors should enter data in Part A for the CMVs (power units and trailers) the motor carrier intends to use in the United States with the exception of trip-leased vehicles.⁸ For trip-leased vehicles, auditors should enter an average number of trip-leased vehicles per month the motor carrier intends to operate in the United States.

Drivers - Auditors should list the number of drivers the motor carrier intends to use to operate CMVs in the United States.

Crashes – Auditors should enter the number of crashes that occurred involving CMVs operated by the motor carrier in the United States, or on a trip to or from the United States.

Vehicle Inspections - Auditors should enter the number of vehicles (tractors and/or trailers) inspected and the number of vehicles placed out of service while operated by the motor carrier in the United States, or on a trip to or from the United States. Additionally, if vehicle inspections are conducted during the PASA, the auditor must enter the number of vehicles (tractors and/or trailers) inspected and the number of vehicles for which out of service violations are discovered.

Part 382 – Controlled Substances and Alcohol Use and Testing

The motor carrier must provide proof that it has implemented or will implement a drug and alcohol program. If the motor carrier provides written documentation evidencing compliance, *e.g.*, a copy of a contract with a C/TPA, and this information cannot be confirmed by contacting the appropriate drug and alcohol laboratory, site, consortium, etc., due solely to communication or system unavailability (*i.e.*, no telephone, facsimile or computer availability), advise the motor carrier that it will be notified at a later date if any deficiencies are discovered. The auditor may continue with the PASA.

⁸ Auditors should enter the data for all the vehicles the motor carrier has in Part C.

- Identify the drivers subject to Part 382 by reviewing the list of the motor carrier's drivers currently operating, or intending to operate, CMVs in the United States compiled during Phase I of the PASA.
- Verify **all drivers** that will be operating in the United States subject to Part 382 are currently enrolled in the company's program.
- Make copies of documents presented to show compliance (*i.e.*, signed contract with consortium, motor carrier drug and alcohol policy or program) to be scanned to EDMS.

Part 383 – Commercial Drivers License

Identify drivers subject to Part 383 by reviewing the list of the motor carrier's drivers currently operating, or intending to operate, CMVs in the United States compiled during Phase I of the PASA. Pay particular attention to any new information that was not provided during Phase I.

Review the motor carrier's management system for ensuring that each of its drivers holds a valid and appropriate license. Information maintained by the motor carrier may include a copy of the license, or relevant data such as license number for each driver.

The auditor must determine that each driver holds a valid and appropriate license to operate CMVs in the United States. If the carrier maintains a copy of the CDL or Licencia Federal de Conductor for its drivers, the auditor should obtain copies, and scan into EDMS.

The auditor shall verify the validity of the license information provided by the carrier for each driver. If the auditor is unable to verify the drivers' licenses at the time of the PASA due to communications errors or systems unavailability, the auditor should advise the motor carrier's representative that he/she will be notified at a later date if any deficiencies are noted. The auditor may continue with the PASA.

Part 387 – Financial Responsibility

The motor carrier must provide a copy of a valid insurance policy, binder or other documentation that demonstrates proof of insurance, from an approved United States-based insurance company, currently in place or to be in place once the motor carrier is granted provisional operating authority. If the motor carrier provides a copy of a valid policy but the auditor is unable to contact the insurance company to confirm insurance information due to communication errors or system unavailability, the auditor should instruct the motor carrier's representative that he or she will be notified at a later date if any deficiencies are noted. Auditors should contact the appropriate State Department of Insurance or Insurance Board to determine if the insurance company is an approved insurance company.

For motor carriers currently operating within the commercial zones, the auditor should follow current eFOTM guidance when reviewing the motor carriers' operations in the United States. The auditor should verify the motor carrier had adequate levels of financial responsibility in effect, and proof of such financial responsibility, at the time of transportation.

A copy of the insurance policy, binder, or documentation must be scanned into EDMS. The auditor may continue with the PASA. Motor carriers applying for OP-1 (MX) operating authority are not required to have a copy of form MCS-90.

Part 390 - General Applicability and Definitions

Advise the motor carrier that any CMV (power unit) intended for use in the United States **must** be properly marked with “X” at the end of the assigned USDOT number after the motor carrier is granted provisional operating authority. Motor carriers that are currently operating in the commercial border zone under a certificate of registration should continue to mark their vehicles with the “Z” suffix to the USDOT number until the motor carrier is granted provisional operating authority. The auditor must review documentation the motor carrier has available on crashes that occurred in the United States or on a trip to or from the United States. If the motor carrier has documentation of crashes that occurred in Mexico, the auditor should note the crash information in Part C.

Part 391 – Qualification of Drivers

Identify all drivers subject to Part 391 by reviewing the list of the carrier’s drivers currently operating, or intending to operate, CMVs in the United States compiled during Phase I of the PASA. The list compiled by the auditor should include: driver’s name, license number, state of issuance, and date of birth. The list should distinguish (i) drivers that will be operating vehicles less than 10,001 pounds Gross Vehicle Weight Rating (GVWR), (ii) drivers that will be operating vehicles between 10,001 pounds and 26,000 pounds GVWR and (iii) drivers that will be operating vehicles 26,001 pounds GVWR and greater. Retain a copy of the list to be scanned into EDMS. The auditor should review driver qualification files only for drivers who operate, or will operate, in the United States vehicles in excess of 10,001 pounds GVWR.

A driver qualification file must be reviewed for **every driver** that the motor carrier intends to use to operate CMVs in the United States. (*E.g.*, if the motor carrier intends to use 20 drivers to operate CMVs in the United States, the auditor must review a driver file for each of the 20 drivers.)

The auditor should ensure the motor carrier driver files are maintained in accordance with Section 391.51 with special attention given to the following items:

- The minimum 21 years old age requirement.
- Check CDLIS for the driver’s license history. CDLIS will reflect whether the driver has a valid CDL in the United States. If the driver has a Licencia Federal de Conductor, CDLIS will show the status of the license and convictions of violations committed in the United States.
- Medical Examiner’s Certificate. For drivers with a Licencia Federal de Conductor a copy in the driver qualification file of the Licencia Federal to demonstrate proof of a medical examination or a copy of the medical examination report would satisfy this requirement. Medical examination reports from SCT are not required.

Part 392 – Driving of Commercial Motor Vehicles

If the auditor discovers any safety related violations for drivers that operate, or will be operating CMVs in the United States, review Part 392 procedures with the motor carrier thoroughly, paying special attention to the safety violation(s) discovered, and ensure the motor carrier understands the importance of compliance with this part. Follow eFOTM guidance.

Part 393 – Parts and Accessories

As noted previously, the auditor must conduct a North American Standard Level V inspection on **all CMVs (power units and trailers)** available that have been identified as long-haul vehicles and have not already received a decal required by section 385.103(c). The auditor should review

the list compiled during Phase I of the PASA of **all CMVs (power units and trailers)** that the motor carrier is currently operating or intends to operate in the United States. The auditor should ensure the compiled list includes the make, year, model, vehicle identification number (VIN), license plate number and GVWR. The compiled list should be scanned to EDMS.

Part 395 – Drivers Hours of Service

The review of HOS for motor carriers that have not begun operations into the United States requires the motor carrier to demonstrate compliance by providing a copy of a log book or RODS to be used by **all drivers** it intends to use to operate a CMV beyond the municipalities and commercial zones, and/or a company policy or other information demonstrating adoption of this requirement, or training material provided to the drivers. If a motor carrier is currently operating in the commercial zone and intends to use some or all of its drivers to operate beyond the commercial zone, review 30 days of RODS for **each** of the drivers it intends to use to ensure compliance with section 395.8(d). In addition:

- Identify all drivers subject to Part 395 by reviewing the list of the motor carrier's drivers currently operating, or intending to operate, CMVs in the United States compiled during Phase I of the PASA;
- Make copies of documents submitted by the carrier to show compliance with HOS (*i.e.*, sample of log book, time card, training material, etc.);
- Review available supporting documents with the motor carrier. If the motor carrier has not begun operations, instruct the motor carrier on supporting documents that should be retained; and
- Scan 8 days of RODS or time cards for one driver into EDMS, demonstrating compliance with the HOS.

Part 396 – Inspection, Repair, and Maintenance

Use the list compiled for Part 393 above of **all** CMVs to identify CMVs subject to Part 396. The auditor shall review maintenance files for every CMV with a GVWR of 10,001 pounds or greater that will be operating within the United States. A copy of one complete maintenance file must be scanned into EDMS. If the motor carrier has not yet operated in the United States (*i.e.*, not an existing commercial zone motor carrier), the auditor should review a copy of a Driver Vehicle Inspection Report (DVIR) that the motor carrier intends to have its drivers use and/or a company policy demonstrating adoption of this requirement, and training materials provided to the drivers. Make copies of these materials and scan into EDMS.

As noted previously, all CMVs (power units and trailers) available at the motor carrier's facility that are currently operating or intended to be operated in the United States must be inspected at the time of the PASA, unless the vehicle has a current decal required by section 385.103(c). The auditor should conduct a Level V inspection using the latest version of ASPEN software. For safety reasons, it is recommended two auditors conduct the Level V inspection. At the discretion of SCT, the auditor may also be accompanied by an SCT inspector.

If an out-of-service (OOS) violation is observed during the vehicle inspections, advise the motor carrier that the vehicle cannot be operated in the United States until the necessary repairs are made and they comply with the requirements of section 365.507(e)(3).

The auditor should leave a copy of the signed inspection report with the motor carrier. The auditor should not upload the ASPEN inspection reports into SAFETYNET, but rather should scan the reports into EDMS.

Advisement of Obligation to Comply with Statutes and Regulations

The auditor must review with the motor carrier Attachment 4 (Advisement of Obligation to Comply with Statutes and Regulations). This document provides an additional notice to the motor carrier of its continuing and ongoing duty and responsibility to comply with applicable statutes and regulations including the Federal Motor Carrier Safety Regulations, and the following specific driver and vehicle obligations when granted provisional operating authority:

- To use only qualified drivers, including the qualification requirement that drivers be proficient in English in accordance with Part 391.11;
- To use only vehicles meeting FMVSS requirements; and
- To comply with pertinent statutes and regulatory requirements of the state, local and tribal jurisdictions in which the carrier will be operating, including size and weight requirements.

After the auditor reviews the advisement with the motor carrier, the auditor should request the motor carrier's official sign the document where indicated acknowledging receipt of the document. The motor carrier's official is not required to sign the Advisement; however, the auditor must note in Part C that the auditor reviewed the advisement with the motor carrier's representative(s), and identify the representative(s) present during the review of the advisement. The auditor should also note on the advisement if the motor carrier official refused to sign. The auditor should make a copy of the advisement (signed or unsigned) and leave a copy with the motor carrier's official. The advisement should be scanned and uploaded to EDMS.

Protest of Application for Granting Provisional Operating Authority

Attachment 5 to this memorandum briefly illustrates the process followed if a protest is received to an OP-1 (MX) application. The auditor should provide the motor carrier a copy of Attachment 5. The auditor should also explain to the motor carrier that if it successfully completes the PASA, FMCSA will publish a summary of its application as a preliminary grant of authority in the USDOT/FMCSA Register to give notice to the public as required in 49 C.F.R. § 365.109(b). Interested persons have 10 days from the date of FMCSA Register publication to file a protest opposing the application. If any protests are filed, the motor carrier may file a reply statement within 20 days from the date of publication of the preliminary grant of authority. The auditor must document in Part C that the carrier was provided with a copy of Attachment 5, and the auditor discussed the Protested Application Process with the motor carrier.

E. Concluding the PASA

1. Irrespective of whether it appears the motor carrier will or will not successfully complete the PASA, the auditor must complete all required data fields in Part A upon completion of each PASA, and print the completed Part A and Receipt page. The auditor must annotate on the Receipt page that the additional documents "Advisement of Obligation to Comply with Statutes and Regulations" (Attachment 4) and "Protested Application Process" (Attachment 5) were provided and should include these two documents in the total number of documents received by the motor carrier. The auditor should give the