



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

FMCSA National Training Center

FMCSA U.S. and Mexico Long-Haul Pilot Program

Mexico-Domiciled CMV Advisory

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Webinar Transcript

Presenters

- Kristopher Wyatt, Transportation Specialist, North American Borders Division

Description:

The FMCSA National Training Center (NTC) is pleased to announce this webinar, which will provide information to state partners and other law enforcement officials about the initiation of the United States-Mexico cross-border long-haul trucking pilot program, and inform these agencies of key points they need to know and of actions to take when encountering motor carrier participants.

FMCSA U.S. AND MEXICO LONG-HAUL PILOT PROGRAM

SLIDE 1: FMCSA U.S. AND MEXICO LONG-HAUL PILOT PROGRAM: MEXICO-DOMICILED
CMV ADVISORY

Kirse Kelly (Web Conference Coordinator, FMCSA National Training Center)

All right. Thank you very much Anna, and thanks to all of you who are participating in our webinar today about the U.S. and Mexico Long-Haul Pilot and Mexican-Domiciled CMV Advisory for Law Enforcement. Today is Wednesday, August 31, 2011, and this webinar is part of the Mexican Border Program series that is being put on by the FMCSA National Training Center and the North American Borders Division.

Now, it's my pleasure to introduce you to our presenter for today's training. Kristopher Wyatt is a Transportation Specialist with the North American Borders Division. So let me go ahead and turn you over to Kris.

Kristopher Wyatt (Transportation Specialist, North American Borders Division):

Hello. Good afternoon everyone. I'd like to personally thank everyone for taking the time to be here for the U.S. and Mexico Long-Haul Pilot Program Advisory Webinar. I know that this webinar was put together and sent out to everyone on a very short notice so we really appreciate your participation. Things are moving very quickly with this pilot program. We're already receiving applications from Mexico-domiciled carriers that are interested in participating in the program and we've already begun processing some of them, and we're getting this program rolling. Since things are moving along so quickly, we needed to get things rolling along with this training as well that FMCSA said it would provide to law enforcement since they will be affected by the program.

SLIDE 2: BACKGROUND

So first of all, let me go ahead and share with you a bit of brief recent background of what is going on with the program. The Federal Motor Carrier Safety Administration published notices in the Federal Register, *Pilot Program on NAFTA Long-Haul Trucking Provision (76 FR 20807)* on April 13, 2011 and July 8, 2011, that outlined the proposal to implement a pilot program which will allow Mexico-domiciled motor carriers to obtain authority to operate beyond the municipalities and commercial zones along the U.S.-Mexico border. This pilot program is the agency's next step in an effort towards fulfilling the NAFTA agreement. As I mentioned earlier, we're already receiving and processing applications. Part of the process of approving carriers for the participation in this program is the subjection of these carriers to a Pre-Authority Safety Audit or PASA. In order for carriers to be approved in this program they have to pass a PASA audit. Just this past week we had teams of auditors already in Mexico beginning the process of conducting some PASA audits.

SLIDE 3: PURPOSE

This webinar was put together to provide information to law enforcement as it relates to the long-haul pilot program. This new pilot program that FMCSA is starting will run for a period of 3 years. During this time Mexico-domiciled carriers that are approved will be allowed to operate within the United States beyond the commercial zones. For those of you on the border, you already know that Mexico-domiciled carriers enter the United States but only operate into the border commercial zones. But this program is actually going to allow them to go beyond those border commercial zones. So, the reason this webinar is being provided to you is because FMCSA wants you to be prepared to deal with these carriers as they're entering your jurisdictions. This webinar will point out certain requirements of the program that you will need to verify to ensure that these carriers are in compliance with the pilot program requirements. We, FMCSA, are going to ask that you assist us with this endeavor.

SLIDE 4: COMPLIANCE WITH U.S. LAWS

So, compliance with U.S. Laws. This is a pretty important slide, because it's very important to note that what we're going to discuss here in this presentation are extra requirements, things that you need to look for, that we're putting on these motor carriers that are going to be approved through this pilot program. So, participating Mexico-domiciled carriers will still be expected, as would any other carrier, to comply with U.S. laws that you would normally be enforcing. Some examples would include the Motor Carrier Safety Regulations, Customs Laws, Immigration Laws, Vehicle Registration Requirements, Fuel Taxation, and so on and so forth. This isn't really meant to be an exhaustive list but just to illustrate that the carriers are going to have to comply with U.S. laws in the same way that any other non-pilot carrier would need to comply. So again, it's not going to be all-conclusive of all those laws in this presentation. There's a lot of those things you are already going to be dealing with and enforcing, but this presentation is meant to touch on the things that are the extra things.

SLIDE 5: LIMITATIONS ON PARTICIPANTS

There are limitations for carriers that wish to be approved in the program. Approved carriers will be limited from engaging in certain types of transportation. Unlike in the previous demonstration project involving long-haul Mexican carriers, carriers participating in this new pilot program will be allowed to transport hazardous materials. However, they will only be allowed to transport hazardous materials in quantities that do not require placards by 49 C.F.R. Part 172, Subpart F. Also, pilot participants may not transport oversized or overweight goods (this includes longer combination vehicles or LCVs), industrial cranes, engage in vehicle towing or courier services. Participating Mexican carriers' operating authority is going to be limited to transportation of freight that is entering or leaving Mexico; domestic point-to-point transportation of freight with an origin and destination wholly within the United States is strictly prohibited. This is what we call cabotage. So, to give you an example of what this means: A participating, Mexico-domiciled carrier may come from, let's say, Mexico City with its cargo, deliver it to a destination, let's say for example, Houston, Texas. They could also bring cargo back from Houston, Texas to Mexico. But what they can't do, however, is drive from Mexico into the United States, pick up a load, say in San Antonio, and transport it up to Chicago. This type of transportation is what is meant by cabotage and it's strictly prohibited. Carriers will have been made aware of this restriction before being allowed to participate in the pilot during the PASA audit that they will go through before being allowed to transport beyond the commercial zone in the United States.

SLIDE 6: APPROVED CARRIERS

Carriers that are approved in the program will be granted a type of authority called OP-1 (MX). Once they're granted authority, the carrier will be identified in several ways. They will be published in the federal register, inputted into the Query Central system, and listed on the new Pilot Program website. A little later in the presentation, there's going to be a slide that will give you the website addresses. Carriers absolutely must maintain active OP-1 (MX) authority to operate long-haul into the United States. As I mentioned earlier, part of the process of a carrier

entering the pilot is being subjected to a PASA audit. During this process, carriers will identify and FMCSA will approve or disapprove specific vehicles the carrier wishes to use in the pilot. A carrier may have vehicles that they only operate into the commercial zone and others that they plan to operate beyond the commercial zone. FMCSA will have to approve the vehicles that the carrier identifies as long-haul vehicles.

The carrier will also designate which specific drivers they want to use in the pilot. This too will be subject to review by the Auditor during the PASA audit and approval by FMCSA as drivers to be used in the pilot program.

There also will be a process by which a carrier, after the PASA audit, and once they're already operating as an approved carrier in the program, can add additional vehicles or drivers. But again, they'll have to be reviewed and approved by FMCSA for participation in the pilot. They can't simply add on additional vehicles or drivers without FMCSA's approval.

SLIDE 7: ENGLISH LANGUAGE PROFICIENCY

Drivers that are approved by FMCSA to be used in the pilot program must be in compliance with English language proficiency requirements, or otherwise known as ELP. During the process of the pre-authorization safety audit, the PASA audit, these carriers, when they undergo it, the drivers are going to be identified as pilot drivers and then they will be evaluated for English language proficiency at that time. English language proficiency is explained in FMCSA's English language proficiency Memo, MC-ECE-005-07 and a supplemental English Language Proficiency Memo dated February 1, 2008, which provides further guidance for English language proficiency evaluation. Unfortunately, these memos are not included as a download from this webinar, but will be emailed to you later, based on the email that you provided as your contact when you signed up for the webinar. These are documents that you likely already have but we just want to be sure that we provide them to you again as a reference. This issue of ELP—we're going to visit it also a little bit later in the presentation.

SLIDE 8: VEHICLES APPROVED FOR USE IN THE PILOT

The vehicles that were identified by the carrier and approved by FMCSA for use in the pilot have to meet certain requirements. Power unit vehicles approved for participation in the pilot must display a current CVSA inspection decal and a U.S. DOT number with an "X" suffix at all times. Not meeting either one of these requirements is considered operating beyond the scope of authority. During the approval process, vehicles reviewed and approved for use in the pilot will have been pre-evaluated for EPA and FMVSS compliance before approval to participate in the pilot program. And another thing to note about these vehicles is that they're going to be equipped with FMCSA-issued electronic monitoring devices with GPS capabilities. This will be to monitor the driver's hours of service and to record the vehicle location. And that's obviously going to be of great help to us in monitoring possible cabotage violations. Just another thing to note on here too, because it may be something you're wondering, when I say your power vehicles will have to have a CVSA inspection decal, it is just power unit vehicles that we are qualifying as a part of the program.

SLIDE 9: NON-APPROVED DRIVERS/VEHICLES

Non-approved drivers and vehicles—now, this slide is basically just a re-iteration of what’s already been mentioned about drivers and vehicles that you may encounter on the roadside. Only the specific drivers and vehicles approved by FMCSA for participation may operate beyond the commercial zone. Use of any others is considered a violation of the carrier’s operating authority. So again, this is an issue that participating carriers are already going to be made aware of during their PASA audit and they’ll already know that they can only use certain drivers and vehicles that have been approved, and if they wish to add additional ones, they’re already going to have been told what the process is that they need to follow so that they can get those additional drivers and vehicles approved. And, FMCSA is going to be responsible for monitoring approved carriers and tracking of any program requirement violations. So this is actually where we’re getting to now where your assistance to us is going to become invaluable.

SLIDE 10: WHAT DOES FMCSA NEED FROM YOU?

So, what does FMCSA need from you? Since FMCSA is tasked to monitor these participants, as I mentioned, for compliance with the U.S.-Mexico agreement, your roadside assistance is going to be essential. As state agencies responsible for oversight of commercial vehicle compliance and commercial motor vehicle inspection, your officers should follow the normal procedures for conducting North American Standard (NAS) inspections. Keeping an eye out for Mexico-domiciled carriers and conducting standard inspections is going to be key to capturing any pilot program violations. In addition to following the usual procedures and protocol for your North American Standard inspection, when you encounter Mexican carriers in your jurisdictions, it will be important for you to identify and verify that the specific motor carrier, their vehicles and drivers that you are seeing right there at the roadside, are approved for participation in the pilot.

SLIDE 11: IMPORTANT ITEMS TO CHECK

So, these are the important items to check. This is what you’re going to look for, what you need to check.

First of all, check to make sure that the carrier you are seeing on the roadside is an approved participant in the pilot and that they have the proper active operating authority.

Listed here on this page are the web addresses where you’ll be able to verify this information. Query Central, whether it’s either accessed directly or through the FMCSA portal, is the location where you’ll be able to identify that the carrier has an active authority and that the specific driver and vehicles are approved participants.

Remember that a vehicle or driver that is approved is not approved for use by any approved carrier, but only for a carrier for which the approval was given. If another participating carrier were to want to use the same driver who has been used already by another participating carrier, that carrier would have to get FMCSA’s approval for that driver for their company so that the databases would be updated to reflect that such is the case and that you would see that driver

listed for that particular company. Or in other words, just because a driver or a vehicle is approved for one pilot carrier it doesn't make them approved for all pilot carriers.

WEB DEMONSTRATION

Ok, so now what I'm going to do is I'm going to go ahead and demonstrate to you what this is actually going to look like when you go into Query to determine if these carriers, vehicles, and drivers are approved as participants in the program. So, as I mentioned earlier, there's two different ways that you can do it. One way would be to go just directly to Query Central. The other way is to go through the FMCSA portal. So I'll go ahead and take that longer route and go ahead and go here to the FMCSA portal.

When you go to the portal, you're going to go ahead and enter your user ID and password as you would normally do, and login. So once you login, of course, it brings you to the portal main page here. And if you notice over here, in the upper left hand corner over here, you have where it says Query Central. So you're going to go ahead and click on Query Central. That opens up Query Central.

So, on the Query Central page you notice that of course you have your various methods of doing Query by driver vehicle carrier here. But what you're going to want to do here is go ahead and enter the DOT number for the carrier that you're seeing.

So what I'll do is, I'm going to go ahead and enter a number here. Now, this is just a test number. Again, there's no carriers currently approved in the program. So this is one that was just set up for demonstration purposes here. So I'll go ahead and enter that number, and click to do my search.

And as you see here, what this opens up is information about the carrier. Now what you'll notice up here at the top, is you've got all along here at the very top this red alert. Now this alert, what it tells you is this motor carrier participates in the OP-1 (MX) long haul pilot program. So this is where you're verifying here, of course, that this is an approved participating carrier. If inspected outside the commercial zone, the driver and vehicle must be checked that they are eligible to participate in OP-1 (MX) operations. See the OP-1 (MX) drivers and vehicles page. Now this OP-1 (MX) drivers and vehicles page is a new link that was not in Query Central before. You'll notice it's right up here in the top right hand corner. So I'll go ahead and click on that now. And it brings you to this page here.

So this page here, again, it has the information about the carrier—you can see the authority type, the status date, and so forth. But what you're going to notice down here—and again this is just for demonstration purposes and it doesn't have actual drivers or vehicles listed. But you'll notice down here there's a scenario that says no drivers exist and another area down here that says no vehicles are listed for this carrier. This is actually where once a carrier is approved in the program you'll be able to see the list of approved drivers and vehicles.

Very similar to this box up here or this box, these tables, there will be another table down here, in the driver's area, that will have the list of the drivers identified by their name, their driver's license number, date of birth, and so forth. Below that you'll have the list of the vehicles, and

again, these are only power units. But you'll see those power units listed, vehicle type—you know, Kenworth, Peterbilt, whatever—as well as other identifying information such as the license plate number, the VIN number, and so on and so forth.

So what you're going to do is, when you come to this page, and you're seeing a driver out there as a part of your inspection, you'll verify, of course, that this is a participating carrier. Then you'll come to this section here and you'll verify ok is this driver that I'm seeing, is he on this list? Is this vehicle that I'm seeing on this list? If they are on the list then they're approved and they're good to go. But if they're not on this list then the driver is not approved or the vehicle is not approved for participation in the pilot, and that is a violation of the carrier's operating authority, operating outside the scope of their authority. So, it's very important that you utilize this tool to check that when you're on the roadside. So now what I'll do is, we'll just go ahead and go back to our PowerPoint slides and continue our presentation from there.

SLIDE 12: MORE IMPORTANT ITEMS TO CHECK

Drivers that are approved in the pilot program must have a Mexican "Licencia Federal de Conductor," or LF. This license type is a valid CDL in the United States and it should be verified as valid through a routine NLETS check.

Now again, as mentioned earlier, drivers must be in compliance with English language proficiency (ELP) requirements. So here's what it boils down to. In general, because of the pre-testing that will be done on drivers before they are approved to be participants in the program, drivers should be able to communicate sufficiently with a law enforcement officer. The pre-testing will have already been done as a part of the PASA audit or in a post-audit evaluation as a part of the approval process for adding additional drivers to an existing carrier.

Pre-approved drivers making a good-faith effort to respond to official inquiries in English should be deemed to be compliant. If, however, during an inspection or stop, it becomes evident that a driver cannot communicate in English, a re-evaluation may be done. We all know that there may be times where, under stress, a driver may have some issues. So again remember that these have been pre-approved and they've been tested before, and if they're making a good faith effort we want to consider them as compliant.

If you do a re-evaluation though, it should be done in line with the English language proficiency memo that I mentioned earlier and the supplemental English language proficiency memo as well. Again, I will email those out later.

Just as another reminder, these items that are being checked are just as a part of the North American Standard inspections that you would already be doing in your usual manner. So, as I mentioned before, since these carriers are expected to follow U.S. laws, as a result of your inspections, if you find violations you should go ahead and cite driver and vehicle violations just as you would normally do.

SLIDE 13: RECORDING THE RESULTS OF THE INSPECTION

Now, as for recording the results of the inspection, I understand that not all of your jurisdictions may use the ASPEN software for doing your CMV inspections. For those of you who do, this guidance slide will be helpful.

For those of you who do not use ASPEN, we would ask that in your inspection systems, if there's some sort of fields that you can use where this information can be recorded, that you please record it so that when the inspections are converted to be put into MCMIS that the data can be captured.

So the inspection reports will need to record the following:

1. You're going to select "PASA Inspection" box in the ASPEN inspection software Start page on Special Check field,
2. And then in Special Studies-Field 1: Existing valid CVSA decal number for power unit,
3. Special Studies-Field 2: Existing valid CVSA decal number for trailer,
4. Special Studies-Field 3: Driver's License Check completed (Yes or No), and
5. Special Studies-Field 4: Vehicle Equipped with the Required Electronic Monitoring equipment (Yes or No).

SLIDE 14: VIOLATIONS AND NOTIFICATIONS

Violations and notifications. Again, remember that as a condition of a motor carrier's authority to operate beyond the commercial zone, power units must, at all times, display a current CVSA decal. So it becomes very important. If a CVSA decal is removed due to violations that you discover in your inspections, please advise the driver of your local procedures for how to request a subsequent inspection so that a new CVSA decal may be obtained. Again, this is important because the operation of a vehicle without a valid CVSA decal is a violation of operating authority. They can't do it. Again, we are not asking for any kind of special breaks or special treatment for these carriers if violations are discovered, so customary enforcement action that you would normally follow should be pursued on discovered violations according to your own local procedures.

What we do ask of you is to help us in tracking the discovered program violations. So, CMV-inspecting agencies should notify the FMCSA division office within your state by telephone or email when encountering a Mexican carrier, driver or vehicle that's operating outside the U.S./Mexico border commercial zones that's not approved in the program. You will be able to use the internet sites that we looked at earlier to determine whether or not they are approved, as I demonstrated.

Downloadable from this webinar, as well, is an Adobe PDF document for state partners. This is a document that outlines the same information that's being presented in the webinar so that you can also use it to pass it along to your other officers.

SLIDE 15: NON-CMV LAW ENFORCEMENT

As for non-commercial vehicle—commercial motor vehicle—law enforcement, FMCSA is going to need your help in serving as a liaison with other law enforcement that do not inspect CMVs. Non-CMV-inspecting law enforcement officers will not be able to access the list of approved drivers and may request your assistance in determining if a carrier is approved in the program. They will, however, be able to access the different public website, which you see here, and they'll be able to verify if a carrier is a participating carrier, or if a vehicle is a participating vehicle in the pilot program. They just won't be able to see driver data on that public page. If a violation of the pilot program requirements is discovered, FMCSA would like for law enforcement to contact you, their local agency responsible for oversight of CMV inspection, so that an inspection can be done and the violations can be captured so that FMCSA can track the discovered program violations.

In addition to the State Partners document I mentioned, there's a similar PDF document that's tailored especially for law enforcement, that's not involved with CMV inspections. You can download that and you can also use that to share with your counterparts so that they can use it for guidance in what to do when encountering these participating and approved pilot carriers.

Another working tool besides those documents is that FMCSA is developing and is currently in the process of trying to get produced some visor cards. These visor cards are going to be distributed out through each state FMCSA division office. What they're going to be is laminated cards with a lot of the same points of information, but in a more condensed format, kind of a checklist of what to check, and it's going to serve as a quick reference for officers while they're on the roadside to know what to do. There's going to be separate visor cards, one tailored for CMV-inspecting officers, and one for non-CMV law enforcement. And we're going to provide these cards, also, to participating carriers, so that when their approved vehicles are stopped, they can provide a card to an officer for use at the time of the stop, in case for some reason, they come across maybe a non-CMV law enforcement officer out there somewhere that has never gotten the word about what this is, what should they do, and it will kind of give them some guidance on what they can do.

SLIDE 16: CRASHES

Now, this brings us to the issue of crashes. Of course crashes are always a concern. Participating Mexican carriers whose drivers or vehicles that are involved in a crash while in the United States need to be identified to FMCSA as soon as possible. Your assistance is going to be to prepare your jurisdiction's accident report form and send a copy to the FMCSA Division office within your state. Now, in any instance of a crash, not only recordable, but recordable or non-recordable accidents—crashes—that involve one of the participating carriers, immediate notification by telephone or email to the FMCSA Division office in your state is requested. Given the high profile of this pilot program, the North American Borders division really needs to know about any crashes, again, whether or not they meet the definition of a recordable crash, because any crash involving these carriers has the potential to be heavily scrutinized. So again, it's going to be important that we get this information because questions will be asked and we'll need to be able to give some answers.

SLIDE 17: SOURCES

That brings us towards the end of our presentation here. Before I do though I would just like to point out that this page here does have the websites, again that were shown earlier, where you can check on approved carriers. And I would just like to take this opportunity to again thank you in advance for your participation in this webinar and for your help with these matters as you're out there coming across these carriers on the roadside.

Kirse Kelly:

This concludes our webinar.

[34:28] (End Time for Presentation)