
Office of Inspector General

Audit Report

IMPROVEMENTS NEEDED IN FMCSA'S PLAN FOR INSPECTING BUSES AT THE UNITED STATES-MEXICO BORDER

Federal Motor Carrier Safety Administration

Report Number: MH-2014-007

Date Issued: November 26, 2013





Memorandum

**U.S. Department of
Transportation**

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION**: Improvements Needed in
FMCSA's Plan for Inspecting Buses at
the United States-Mexico Border
Report No. MH-2014-007

Date: November 26, 2013

From: Joseph W. Comé 
Assistant Inspector General for Highway
and Transit Audits

Reply to
Attn. of: JA-40

To: Federal Motor Carrier Safety Administrator

Under the 1994 North American Free Trade Agreement (NAFTA), the United States and Mexico agreed to long-haul, cross-border transportation of cargo and passengers. Since 2002, Section 350(c) of annual appropriations legislation¹ has required that no vehicles owned or leased by Mexican motor carriers may be permitted to operate beyond commercial zones² until the Office of Inspector General (OIG) verifies the Federal Motor Carrier Safety Administration's (FMCSA) implementation of eight safety criteria. These criteria, detailed in exhibit B, include maintaining staffing and infrastructure for monitoring Mexico-domiciled carriers and capacity to conduct meaningful inspections of commercial vehicles and drivers at United States-Mexico border crossings.

We have issued 10 audit reports on FMCSA's implementation of Section 350(c) and on pilot programs authorizing long-haul, cross-border trucking services between the United States and Mexico (see exhibit C). In August 2009,³ we recommended the Agency improve its capacity to perform bus inspections (see exhibit D).

Our objectives for this audit were to determine whether FMCSA (1) is complying with the Section 350(c) safety requirements and (2) took sufficient action to

¹ Department of Transportation and Related Agencies Appropriations Act of 2002, Pub. L. No. 107-87 (2001). Each year, the appropriations legislation has extended OIG's audit requirement.

² Commercial zones generally extend 3 to 25 miles north of United States-Mexico border municipalities (or 75 miles within the State of Arizona).

³ *Follow-Up Audit on the Implementation of the North American Free Trade Agreement's (NAFTA) Cross-Border Trucking Provisions* (OIG Report Number MH-2009-068), Aug. 17, 2009. OIG reports are available on our Web site at <http://www.oig.dot.gov/>.

implement our prior recommendations for improving its capacity to perform bus inspections at the border. To conduct our work, we observed inspection operations at 10 of 27 passenger carrier border crossings, including crossings in the 6 highest volume counties. We assessed FMCSA's border enforcement staffing, mechanisms used by inspectors to check commercial driver records, inspection practices and data, and FMCSA's implementation of our 2009 audit recommendations. We conducted this audit from September 2012 through September 2013 in accordance with generally accepted Government auditing standards. Exhibit A provides more details on our scope and methodology.

RESULTS IN BRIEF

FMCSA generally complies with Section 350(c) safety requirements. It has staffing, facilities, equipment, and procedures in place to conduct inspections of Mexico-domiciled carriers, vehicles, and drivers. FMCSA's border staffing has decreased slightly, but the Agency is training new applicants and reviewing its staffing requirements to better identify its personnel needs and allocate its resources. However, from October 2012 to August 2013, a disruption in FMCSA's routing software—referred to as the Gateway⁴—has prevented States from entering Mexican driver conviction reports into the Commercial Driver's License Information System (CDLIS), an information platform used to transmit driver history records for commercial driver's license holders. The resulting backlog of conviction data could potentially delay enforcement action against some Mexican drivers that should be disqualified for moving violations, such as driving under the influence or excessive speeding. During the period of the disruption, FMCSA requested that States mail in paper copies of the conviction reports. FMCSA has also implemented alternative procedures during the disruption that allows inspectors to access information on Mexican commercial drivers.

FMCSA has taken steps to improve passenger carrier safety at the border but has not taken sufficient actions to fully address our prior recommendations for improving its capacity to inspect buses. In response to our August 2009 recommendations, FMCSA agreed to (1) revise its bus safety plan to include the frequency of required bus inspections and identify actions to eliminate obstacles to achieving inspection coverage during all periods during which the crossings are open, and (2) work with United States Customs and Border Protection (CBP) and the General Services Administration (GSA) to assess the safety and efficiency of bus inspection space and pursue additional accommodations as appropriate. FMCSA updated its bus safety plan in December 2011,⁵ but the plan does not adequately address bus inspection frequency or identify actions to eliminate inspection obstacles—actions that would better position FMCSA to target its

⁴ FMCSA's CDLIS Gateway is routing software that allows authorized users to access CDLIS.

⁵ FMCSA, "Bus Safety Enforcement at the Southern Border," Dec. 2011.

inspection resources. FMCSA also worked with other agencies to identify alternative inspection space at certain locations, but it has not negotiated interagency agreements with CBP to establish standard bus inspection protocols or completed facility and staffing assessments needed to fully address inspection safety and efficiency issues.

We are making recommendations to improve FMCSA's implementation of the NAFTA cross-border provisions and its bus safety plan.

BACKGROUND

Considerable bus traffic travels through United States-Mexico border crossings. According to Bureau of Transportation Statistics (BTS), more than 421,000 buses carrying over 5.6 million passengers entered the United States during fiscal years 2011 and 2012. United States-domiciled and Mexico-domiciled buses enter the United States through 27 crossings. Most bus volume occurs at nine primary crossings in six counties located in California and Texas—representing 96 percent of bus entries and 94 percent of passenger entries (see table 1).⁶ The highest volume county—San Diego, CA—represents almost half of all border entries, and the next three highest volume counties—Webb, TX; El Paso, TX; and Hidalgo, TX—each represented 10 percent or more of total bus and passenger entries.

Table 1. Average Annual Bus and Passenger Border Entries in Six Highest Volume Counties, Fiscal Years 2011 Through 2012

County	Primary Border Crossings	Number of Bus Entries	Percent of Bus Entries	Number of Passenger Entries	Percent of Passenger Entries
San Diego, CA	San Ysidro, Otay Mesa	99,952	47	687,164	24
Webb, TX	Lincoln-Juarez	41,837	20	967,257	34
El Paso, TX	BOTA, Paso Del Norte	23,307	11	467,674	17
Hidalgo, TX	Hidalgo	20,681	10	307,315	11
Santa Cruz, AZ	Nogales Mariposa, Nogales DeConcini	8,738	4	161,855	6
Cameron, TX	Veterans Bridge	7,307	4	44,862	2
Total for High-Volume Counties		201,822	96	2,636,127	94
Total for Low-Volume Counties		8,905	4	172,937	6

*Percentages rounded.

Source: BTS, based on data from CBP.

⁶ Five higher volume counties (San Diego, Webb, El Paso, Hidalgo, and Cameron) have lower volume passenger crossings that average 2 to 30 bus entries per month. CBP and BTS could not provide entry data for these crossings.

FMCSA and the States inspect drivers and/or vehicles for approximately 7 percent of bus entries in the highest volume counties, similar to the 8 percent inspection rate for large truck entries. Inspection rates are affected by various factors such as bus volume, inspection schedules, inspector qualifications, and facility conditions. Bus inspections are based on the Commercial Vehicle Safety Alliance's (CVSA) North American Standard Inspection Procedures (see exhibit E), which categorize inspection types by levels. A Level I inspection examines the driver and bus, including the undercarriage (brake system, steering components, and suspension). Less comprehensive inspections review only the driver (Level III) or only the vehicle (Level V).



A Level I inspection includes both driver and vehicle inspections.

A Level III inspection only includes an inspection of the driver.

Source: Photos obtained from FMCSA.

Inspections at the border may result in the driver and/or vehicle being placed out of service, which means that a bus cannot continue operating until the violations are corrected. According to FMCSA data on roadside inspections of passenger carriers for calendar year 2012, the rate of drivers placed out of service while operating Mexico-domiciled passenger vehicles was 8.7 percent, compared to the 5.1-percent rate for drivers operating United States-domiciled passenger vehicles. The rate of Mexico-domiciled passenger vehicles placed out of service was 11.9 percent, compared to the 6.5-percent rate for United States-domiciled passenger vehicles.

FMCSA GENERALLY COMPLIES WITH SECTION 350(C) REQUIREMENTS, BUT A SOFTWARE DISRUPTION MAY DELAY RECORDING AND ENFORCEMENT OF DRIVER CONVICTIONS

FMCSA generally complies with the safety requirements set forth in Section 350(c), as it has staffing, facilities, equipment, and procedures in place to conduct inspections of Mexico-domiciled carriers, vehicles, and drivers. FMCSA's border staffing has decreased slightly, but the Agency is training new applicants and

reviewing its staffing requirements to better identify its personnel needs and allocate its resources. However, a software disruption in FMCSA's routing software—or Gateway—has prevented States from uploading Mexican driver conviction reports into CDLIS. FMCSA implemented alternative procedures during the disruption that allows inspectors to access information on Mexican commercial drivers, but States' transmittal of Mexican driver conviction information to CDLIS has been delayed. The resulting backlog of convictions could potentially delay enforcement action against some Mexican drivers, posing a potential adverse impact on safety.

Border Enforcement Staffing Decreased, but FMCSA Is Training New Applicants and Assessing Staffing Needs

Section 350(c) requires the Department to staff and train border inspectors. As of January 2013, FMCSA's border enforcement staff consisted of 233 inspectors, auditors, investigators, and other personnel—a slight decrease of 4 percent compared to 2011 (243 staff) and a decrease of 8 percent compared to 2007 (254 staff). The decrease in staff can be attributed to normal attrition, and FMCSA has plans to fill vacancies with nine border personnel that are currently attending FMCSA's training academy.

FMCSA is also conducting a staffing assessment with the Volpe Center to evaluate whether FMCSA has appropriate border personnel allocated by role and location. According to FMCSA, the assessment should allow more effective allocation of resources and identification of potential personnel needs. FMCSA anticipates completion of this assessment by September 30, 2013. However, until FMCSA completes the staffing assessment, the Agency does not have full assurance that it has sufficient border enforcement staffing, and appropriate allocation of staff, to comply with Section 350(c) requirements.

A Software Disruption Could Delay Recording and Enforcement of Mexican Driver Convictions

From October 2012 to August 2013, a disruption in FMCSA's routing software—or Gateway—to CDLIS has prevented inspectors from accessing its database to check the status of Mexican commercial drivers. This database includes information on whether the driver's license has been suspended or revoked based on the individual's driving record in Mexico or in the United States. The disruption occurred when FMCSA transitioned its CDLIS Gateway service to a new vendor under a \$2.6-million contract. FMCSA issued a \$540,000 contract modification to restore service and meet current security standards.

After the disruption, FMCSA implemented alternative procedures that called for inspectors to review Mexico's transportation ministry Web site for access to

Mexican driver records. We confirmed the alternative procedures were in place and working. However, the Gateway disruption also delayed required⁷ State reporting of Mexican commercial driver conviction information to CDLIS, which resulted in a backlog of conviction data on Mexican drivers' moving violations. Accurate and complete reporting of convictions is important because, under FMCSA regulations, certain convictions for moving violations—such as driving under the influence or excessive speeding—can result in disqualification of the driver.

During the disruption, FMCSA requested that States mail paper-based convictions to the new vendor for data entry. FMCSA and its contractor established quality control procedures for the management, review, and processing of convictions and license withdrawals, but we did not review these controls. As of August 2013, FMCSA's vendor had received about 3,400 paper-based convictions from the States. The vendor is currently scanning and analyzing the backlog of convictions but found that 90 percent of 974 analyzed convictions from 3 border States required additional processing because of problems such as conviction forms not conforming to specifications. Considering these problems and earlier transition issues the vendor has faced, timely and accurate processing of the backlog may be a challenge. According to FMCSA, the conviction data may not be completely uploaded until November 2013. The backlog of convictions could potentially result in delayed enforcement action against some Mexican drivers.

FMCSA HAS NOT TAKEN SUFFICIENT ACTION TO ADDRESS OUR RECOMMENDATIONS FOR IMPROVING ITS CAPACITY TO PERFORM BUS INSPECTIONS AT THE BORDER

FMCSA has taken steps to improve passenger carrier safety at the border, but has not taken sufficient actions to meet the intent of our prior recommendations for improving its capacity to perform bus inspections at the border. These include actions for (1) updating its bus safety plan to establish inspection frequency and address obstacles to inspection coverage, and (2) working with CBP and GSA to assess the safety and efficiency of bus inspection spaces.

⁷ The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires States to report convictions of foreign commercial drivers. MAP-21 requires such reports to include each conviction by a driver holding a foreign commercial or non-commercial driver's license, or by an unlicensed driver.

FMCSA Has Not Fully Addressed Our Recommendation on Establishing Inspection Frequency and Eliminating Obstacles to Inspection Coverage

While FMCSA updated its bus safety plan to describe its strategy for conducting bus inspections at border crossings, the plan does not specifically identify the frequency of required bus inspection coverage—an action FMCSA agreed to take in response to our 2009 report. For example, the plan does not specify whether weekend inspection coverage is required or how often inspectors should be on duty at high-volume crossings—some of which are open 24 hours a day, 7 days a week. Instead, the plan is a descriptive overview that details the average monthly entries at each bus crossing (based on CBP data⁸), the hours of operation at the crossings, and the types of inspections, if any, that can be conducted by FMCSA at the locations. For instance, according to the plan, the DeConcini crossing in Nogales, AZ, is open 24 hours per day, averages 243 bus crossings per month, and has the capacity to conduct Level III (driver-only) inspections at this location. CBP officials stated that buses enter at DeConcini from 10 p.m. to 6 a.m. each day when the nearby Mariposa crossing closes to bus traffic. During our site visit, we observed bus traffic entering DeConcini between 10 p.m. and 1 a.m. without inspection. FMCSA officials stated that they do not schedule inspections at this crossing. The lack of inspection coverage at DeConcini and potential mitigation strategies to address it are not discussed in the bus plan. The plan also does not discuss the allocation and prioritization of inspectors at close proximity crossings, such as at the DeConcini and Mariposa crossings.

Although FMCSA's bus safety plan acknowledges the need for extended coverage at high-volume locations⁹ and identifies alternative inspection locations—such as bus terminals, tourist destinations, carrier terminals, and maintenance facilities—it does not specify how frequently these alternative actions should be used or link the strategies to the locations where the alternative actions would be most needed. Instead, the plan states that FMCSA has established protocols ensuring consistent inspection coverage at the majority of bus crossings, but it does not support this assertion with targets for inspection frequency at each location.

Additionally, the bus safety plan does not identify actions to eliminate obstacles to achieving inspection coverage during all periods that crossings are open—another action FMCSA agreed to take when responding to our 2009 report. For example,

⁸ In its bus safety plan, FMCSA states that it is unclear how CBP counts large passenger vans that are subject to FMCSA regulation or the extent to which accounting for them would increase the population of passenger vehicles that need to be periodically inspected. A 2008 study sponsored by FMCSA concluded that about 75 percent of commercial passenger vehicle traffic at the border consisted of motor coaches and 25 percent consisted of passenger vans.

⁹ In addition to FMCSA's enforcement personnel, 352 State inspectors conduct large truck and bus inspections at the United States-Mexico border. FMCSA conducts most of the bus inspections at the border, while States mainly conduct roadside inspections within the border counties. Lincoln-Juarez is the only crossing we visited that had a significant State inspection presence at the border.

while FMCSA's plan notes the limitation produced by inadequate lighting at certain crossings, most notably at San Ysidro, CA, it does not identify potential actions to address this obstacle, such as adding portable lighting at these crossings. Overall, passenger carriers entering during evening hours are less likely to be inspected. For instance, in fiscal year 2012, FMCSA and the States conducted 87 percent of all border inspections between 7 a.m. and 7 p.m.

We recognize the challenges posed with implementing our prior recommendations on establishing inspection frequency and eliminating obstacles to inspection coverage at each location. These challenges include wide variations among crossings in the frequency of scheduled inspections, traffic volumes, and types of inspections conducted. However, as part of this review, we identified opportunities for FMCSA to provide additional guidance in the bus safety plan to address these variations and mitigate inspection gaps. For example:

- The number of days when FMCSA scheduled passenger carrier inspections varied by the border crossings we visited, but the plan does not identify the rationale for variations in inspection coverage or provide mitigation strategies for inspection gaps (see table 2).

***Table 2. Variations in Inspection Coverage
Quarter Ending September 2012***

Passenger Border Crossing	Average Scheduled Days Per Month	Weekend Inspections
Lincoln-Juarez	21	Yes
Hidalgo	6	No
San Ysidro	5	Yes
Otay Mesa	2	Yes
El Paso	No regular schedule	No

Source: FMCSA and the Motor Carrier Management Information System (MCMIS)

Moreover, our analysis of fiscal year 2012 bus inspections in El Paso and Hidalgo Counties identified 37 periods, 18 and 19 respectively, of 7 days¹⁰ or more without a single passenger carrier inspection. Three of these periods equaled or exceeded a month without an inspection. In addition, no bus inspections were scheduled at the DeConcini crossing in Nogales, AZ, despite statements in the plan that FMCSA had the ability to perform inspections at that location.

¹⁰ According to FMCSA's hours of service rule, drivers of commercial passenger vehicles may not drive after 60/70 hours on duty in 7/8 consecutive days.

- Inspection coverage was not consistent with the amount of border traffic. FMCSA’s plan does not identify mitigation strategies to address the gaps between traffic volume and inspection coverage. Overall, our analysis shows that FMCSA and State inspectors conducted 51 percent of their bus inspections in counties with only 12 percent of bus volume from Mexico in fiscal years 2011 and 2012. For example, FMCSA and State inspectors conducted 21 percent of all Southern Border inspections in Santa Cruz County, AZ, although only 4 percent of buses entered through this county.
- The volume and location of Level I (complete vehicle and driver), Level III (driver-only) and Level V (vehicle-only) inspections also varied, but the variation did not necessarily correspond with the facilities’ different inspection capacities. For example, at Veterans International Bridge in Brownsville, TX—a facility equipped to perform full vehicle inspections—FMCSA conducted Level I (complete vehicle and driver) inspections and Level V (vehicle-only) inspections for less than 1 percent of its 1,695 inspections in fiscal year 2012. In contrast, FMCSA inspectors in San Diego County—operating from a portable inspection facility on a city street—conducted Level I complete inspections for 95 percent of its 537 inspections.
- The volume of passenger van inspections also varied. In fiscal year 2012, FMCSA and State inspectors in Nogales and San Diego Counties performed more than 1,100 passenger van inspections in fiscal year 2012. In contrast, they inspected only 16 vans in high volume Texas border counties, despite a 25 percent out-of-service rate for passenger vans in Texas. FMCSA’s bus plan did not identify the rationale for these variations or mitigation strategies to address these gaps between facilities’ inspection capabilities and the types of inspections performed. (See exhibit F for additional details on our analysis of bus inspections at the border.)



FMCSA inspector directs a bus onto ramps for a Level I (complete vehicle and driver) inspection at Otay Mesa, CA.

Source: Photo by OIG.

A bus safety plan with additional analysis and mitigation strategies to address these variations in inspection coverage would better position FMCSA to target its inspection resources to the highest risk locations and complement other FMCSA initiatives to target enforcement actions on the highest risk passenger carriers.¹¹

¹¹ FMCSA described these initiatives in its Motorcoach Safety Action Plan, initially issued in 2009 and updated in 2012.

FMCSA Has Not Fully Addressed Our Recommendation To Assess the Safety and Efficiency of Bus Inspection Spaces

In response to our 2009 recommendations, FMCSA agreed to work with CBP and GSA to assess the safety and efficiency of bus inspection space and pursue additional accommodations as appropriate. FMCSA worked with CBP to identify alternative inspection space at certain locations, such as Otay Mesa, CA. We observed FMCSA officials conducting inspections at this location.

FMCSA started but has not completed an assessment of the safety and efficiency of bus inspection capacity. FMCSA completed an initial truck and bus inspection facility master planning study in September 2012. The study outlined space requirements, traffic volume, staffing, and inspection constraints. It also prioritized 6 bus crossings as “urgent” in terms of facility needs and identified 12 other facilities that would be considered in later stages of the plan. FMCSA is moving forward to the next planning phase in August 2013, a feasibility study in coordination with GSA and CPB to determine if adequate space exists for permanent inspection facilities, temporary inspection canopies, and traffic flow modeling. FMCSA officials indicated, however, that the feasibility plan and construction of permanent inspection facilities are long-term efforts that might take years to complete.

Additionally, FMCSA lacks an interagency agreement with CBP Headquarters to establish standard inspection protocols for safe and efficient bus inspections across the border. Of the 27 passenger carrier crossings, only the Hidalgo, TX, crossing had a written agreement with CBP establishing policies and procedures for inspecting vehicles and drivers and placing them out of service. A written interagency agreement between FMCSA and CBP would provide clear guidance to border staff and ensure more consistent implementation across the border. FMCSA and CBP field officials agreed that an agreement would provide benefits, such as continuity during changes in leadership.

The continued need to work on bus inspection safety and efficiency issues is demonstrated by inspection practices and conditions we observed during our current review at certain border crossings. Generally, FMCSA does not have permanent facilities to perform bus inspections, and the number and physical capacity of FMCSA’s temporary inspection spaces limit the number of inspections FMCSA can realistically perform. At some locations, the close proximity of inspection space to moving traffic does not adequately provide for the safety of personnel conducting inspections. For example:

- At the San Ysidro crossing in San Diego, CA, FMCSA worked with the California Highway Patrol to find inspection space on the shoulder of a public road near the CBP compound. FMCSA and CBP also identified two spaces

inside the CBP compound at the Lincoln-Juarez crossing in Laredo, TX. However, these spaces lack protective barriers between the inspection areas and the roads, and there is inadequate lighting for evening inspections.

- At the Bridge of the Americas and Paso Del Norte crossings in El Paso, TX, inspectors rarely inspect vehicles because of CBP concerns about passenger safety and security when buses are placed out of service. FMCSA and State inspectors in El Paso County conducted only 10 Level I (complete vehicle and driver) inspections and 2 Level II (driver and vehicle walk around) inspections for buses in fiscal year 2012. Despite this limitation, FMCSA did not work with CBP or the Texas Department of Public Safety to identify a safe, alternative site for bus inspections. As an example of infrequent vehicle inspections, we identified a Mexico-domiciled carrier with a fleet of 10 buses that received 54 driver inspections but no vehicle inspections during the last 2 fiscal years.



Inspection on the shoulder of a public road near San Ysidro, CA, border crossing.

Source: Photo by OIG.

CONCLUSION

Robust border inspection processes and practices are important for ensuring FMCSA's continued compliance with cross-border trucking provisions and the safety of vehicles entering the United States from Mexico. FMCSA is challenged to improve bus inspection processes and practices at the border given the need to collaborate with other agencies and variations among border crossings. While FMCSA's actions are noteworthy, additional focus to improve the bus safety plan and its implementation will further advance the safety goals of the program and its efforts to reduce bus-related fatalities and injuries.

RECOMMENDATIONS

We recommend the Federal Motor Carrier Safety Administrator:

1. Complete the staffing assessment being conducted with the Volpe Center.
2. Eliminate the backlog of conviction reports and confirm that the vendor complied with quality controls for managing and processing convictions.

3. Update and periodically review the bus safety plan to (a) address frequency of border inspections based on evaluation of traffic volume and available resources, and link alternative inspection strategies to the specific crossings, (b) identify the rationale for variations in inspection coverage and for conducting different levels of inspections, and (c) detail mitigation strategies to address gaps between traffic volume and inspection coverage.
4. Complete the feasibility assessment to address the challenges associated with inspecting passenger carriers.
5. Negotiate a written agreement with United States Customs and Border Protection, at the Headquarters level, to establish standard inspection protocols for safe and efficient bus inspections across the border.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FMCSA with our draft report on September 23, 2013, and received its response on November 19, 2013. FMCSA's complete response is included as an appendix to this report. In its response, FMCSA concurred with all five of our recommendations.

For recommendation 2, FMCSA provided documentation that it completed appropriate actions to implement the recommendation. Accordingly, we consider this recommendation resolved and closed.

For recommendations 1, 3, and 4, FMCSA provided appropriate planned actions and target completion dates. Accordingly, we consider these recommendations resolved but open pending completion of planned actions.

For recommendation 5, FMCSA agreed to establish a written agreement with CBP and to initiate agreement negotiations by December 31, 2014. However, FMCSA stated that challenges, such as finite space at border locations, may prevent the Agency from achieving a final written agreement despite its best efforts. We acknowledge these potential challenges and note that FMCSA may revise its estimated completion date to allow additional time to address any challenges it encounters during negotiations. We consider this recommendation resolved but open pending completion of the agreement.

ACTIONS REQUIRED

In accordance with follow-up provisions in Department of Transportation Order 8000.1C, we request that FMCSA provide our office with documentation demonstrating completion of its planned actions. We appreciate the courtesies and

cooperation of Department of Transportation and Department of Homeland Security representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630 or Kerry R. Barras, Program Director, at (817) 978-3318.

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cc: FMCSA Audit Liaison, MCPRS
DOT Audit Liaison, M-1

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted our work from September 2012 through September 2013 in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our objectives for this audit were to determine whether FMCSA (1) is complying with the Section 350(c) safety requirements and (2) took sufficient action to implement our prior recommendations for improving its capacity to perform bus inspections at the border.

We visited 5 FMCSA border offices and observed operations at 10 of 27 passenger carrier border crossings (see table 3). We selected our site visits based on bus entry volume, and visited 9 high volume crossings and one low volume crossing. At each border crossing visited, except for DeConcini, we observed bus and driver inspection procedures and operations, inspection-related facilities, and equipment. Our safety specialists, with extensive law enforcement and vehicle inspection experience, provided us with technical assistance on the bus inspections we observed.

Table 3. FMCSA Border Offices and Passenger Carrier Border Crossings Selected for Site Visits

5 FMCSA Border Offices	10 Passenger Carrier Border Crossings
<i>Otay Mesa, CA</i>	San Ysidro Otay Mesa
<i>Laredo, TX</i>	Lincoln Juarez Eagle Pass
<i>El Paso, TX</i>	Bridge of the Americas Paso Del Norte
<i>Weslaco, TX</i>	Hidalgo Veterans International Bridge
<i>Nogales, AZ</i>	Mariposa DeConcini

We created and used structured checklists and questionnaires to gather information regarding the Section 350(c) safety requirements during our site visits to border offices. We interviewed officials from FMCSA, CBP, and the States to identify (1) border inspection conditions and variations from our 2009 audit, (2) actions taken in response to our 2009 audit recommendations, (3) current inspection

procedures used to permit passenger carriers entry into the United States, and (4) working relationships between border staff from different agencies. During these interviews we also discussed inspection capacity, limitations, and alternative strategies for conducting passenger carrier inspections in the commercial zone. We interviewed FMCSA officials to determine the status of the Gateway disruption, steps being taken to restore the Gateway connection, and alternative procedures used to verify the status of Mexico-domiciled drivers. During subsequent visits to border crossings, we confirmed whether FMCSA inspectors were able to execute the alternative procedures. Finally, we monitored FMCSA's progress in overseeing the resulting backlog of conviction data.

We evaluated FMCSA's policies and procedures, evaluated internal controls, and reviewed documentation related to staffing, training, and inspections. We reviewed FMCSA's December 2011 bus safety plan for provisions we recommended in 2009 and compared the plan to our observations of bus and driver inspections during site visits to the 10 border crossings. We also evaluated FMCSA's actions to improve its capacity to conduct passenger carrier inspections. We analyzed CBP and BTS data on bus and passenger entry volume, and MCMIS data on passenger carrier border inspection activity and coverage for fiscal years 2009 through 2012. We confirmed data reliability in terms of accuracy, completeness, and expected values for the selected data fields that we evaluated.

EXHIBIT B. SECTION 350(c) REQUIREMENTS

Section 350(c) of the Department of Transportation and Related Agencies Appropriations Act of 2002, and subsequent appropriations legislation, requires that no vehicles owned or leased by a Mexico-domiciled motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by FMCSA until OIG conducts a comprehensive review of border operations to verify that—

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- (A) all new inspector positions have been filled and inspectors have been fully trained.

 - (B) each inspector conducting on-site safety compliance reviews in Mexico is fully trained as a safety specialist.

 - (C) the staffing requirement has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border.

 - (D) FMCSA has implemented a policy to ensure compliance with hours-of-service rules by Mexican motor carriers seeking long-haul operating authority.

 - (E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of United States enforcement authorities to verify the status and validity of licenses, vehicle registrations, operating authority, and insurance of Mexican motor carriers while operating in the United States. Adequate telecommunications links exist at border crossings and in mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority, and insurance information can be easily and quickly verified.

 - (F) there is adequate capacity at each border crossing to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out of service.

 - (G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers, and their drivers, that apply for long-haul authority.

 - (H) measures are in place to enable United States law enforcement authorities to ensure the monitoring and enforcement licensing procedures for Mexican motor carriers.

EXHIBIT C. PRIOR NAFTA CROSS-BORDER AUDIT COVERAGE

The following is a list of prior OIG reports issued on NAFTA:

- *Increased Participation and Improved Oversight Mechanisms Would Benefit the NAFTA Pilot Program* (OIG Report Number MH-2012-169), Aug. 16, 2012.
- *FMCSA Generally Complies With Statutory Requirements, but Actions Are Needed Prior To Initiating Its NAFTA Cross-Border Trucking Pilot Program* (OIG Report Number MH-2011-161), Aug. 19, 2011.
- *Follow-Up Audit on the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions* (OIG Report Number MH-2009-068), Aug. 17, 2009.
- *Status Report on NAFTA Cross-Border Trucking Demonstration Project* (OIG Report Number MH-2009-034), Feb. 6, 2009.
- *Interim Report on NAFTA Cross-Border Trucking Demonstration Project* (OIG Report Number MH-2008-040), Mar. 10, 2008.
- *Issues Pertaining to the Proposed NAFTA Cross-Border Trucking Demonstration Project* (OIG Report Number MH-2007-065), Sept. 6, 2007.
- *Follow-Up Audit of the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions* (OIG Report Number MH-2007-062), Aug. 6, 2007.
- *Follow-up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross-Border Trucking Provisions* (OIG Report Number MH-2005-032), Jan. 3, 2005.
- *Follow-up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border* (OIG Report Number MH-2003-041), May 16, 2003.
- *Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border* (OIG Report Number MH-2002-094), June 25, 2002.

EXHIBIT D. STATUS OF AUGUST 2009 RECOMMENDATIONS

In our August 2009 report, *Follow-Up Audit on the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions*,¹² we recommended the FMCSA Acting Deputy Administrator:

1. Improve the monitoring of Mexican Federal CDL holders operating in the United States by (a) developing and implementing a timely report that identifies state data inconsistencies in the Mexican Conviction Database (MCDB), and assigning in the MCDB data quality control plan the responsibilities to address and follow up on data inconsistencies; (b) assessing whether legislative, regulatory, or MCDB system changes are needed to ensure consistent reporting and matching of different categories of traffic convictions, including convictions in non-commercial vehicles and convictions occurring under various types of Mexican-issued licenses; and (c) developing an action plan for implementing identified changes in the monitoring process, based on assessment results.

STATUS: FMCSA fully implemented all parts of recommendation 1, and OIG closed the recommendation on October 18, 2011.

2. Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by (a) adding to its Bus Inspection Plan the frequency of required bus inspections at non-commercial crossings and inspections during any hour the border crossing is opened, to include evening and weekend hours, and to include actions to eliminate obstacles to achieving inspection coverage during all open periods; and (b) working with the Customs and Border Protection Service, and other agencies as appropriate, to assess the safety and efficiency of bus inspection locations and space at all non-commercial border crossings at the southern border.

STATUS: Recommendations 2(a) and 2(b) remain open. Actions needed to fully implement these recommendations are described in this report.

¹² Report Number MH-2009-068, Aug. 17, 2009.

EXHIBIT E. CVSA INSPECTION PROCEDURES

	Level	I	II	III	IV	V	VI
1	Choose the Inspection Site	•	•	•			•
2	Approach the Vehicle	•	•	•			•
3	Greet and Prepare the Driver	•	•	•			•
4	Interview Driver	•	•	•			•
5	Collect the Driver's Documents	•	•	•			•
6	Check for Hazardous Materials and Dangerous Goods	•	•	•			•
7	Identify the Carrier	•	•	•			•
8	Examine the Driver's License	•	•	•			•
9	Check Medical Examiner's Certificate and Skill Performance Evaluation Certificate (If Applicable)	•	•	•			•
10	Check Record of Duty Status	•	•	•			•
11	Review Driver's Daily Inspection Report (If Applicable)	•	•	•			•
12	Review Periodic Inspection Report(s)	•	•	•			•
13	Prepare Driver for Vehicle Inspection	•	•			•	•
14	Inspect Front of Tractor	•	•			•	•
15	Inspect Left Front Side of Tractor	•	•			•	•
16	Inspect Left Saddle Tank Area	•	•			•	•
17	Inspect Trailer Front	•	•			•	•
18	Inspect Left Rear Tractor Area	•	•			•	•
19	Inspect Left Side of Trailer	•	•			•	•
20	Inspect Left Rear Trailer Wheels	•	•			•	•
21	Inspect Rear of Trailer	•	•			•	•
22	Inspect Double, Triple and Full Trailers	•	•			•	•
23	Inspect Right Rear Trailer Wheels	•	•			•	•
24	Inspect Right Side of Trailer	•	•			•	•
25	Inspect Right Rear Tractor Area	•	•			•	•
26	Inspect Right Saddle Tank Area	•	•			•	•
27	Inspect Right Front Side of Tractor	•	•			•	•
28	Inspect Steering Axle(s)	•				•	•
29	Inspect Axle(s) 2 and/or 3 (Under Carriage of CMV)	•				•	•
30	Inspect Axle(s) 4 and/or 5	•				•	•
31	Check Brake Adjustment	•				•	•
32	Inspect Tractor Protection System (Tests both tractor protection system and emergency brakes.)	•				•	•
33	Inspect Required Brake System Warning Device	•	•			•	•
34	Test Air Loss Rate	•	•			•	•
35	Check Steering Wheel Lash	•	•			•	•
36	Check Fifth Wheel Movement	•				•	•
37	Complete the Inspection	•	•	•		•	•

EXHIBIT F. ADDITIONAL DETAILS ON OIG ANALYSIS OF FMCSA'S BORDER INSPECTION DATA

Our review determined that the frequency of passenger carrier inspection coverage varied among FMCSA's border field offices (see table 4). As a result, some counties had lower inspection rates than others. For example, in San Diego County, FMCSA inspected less than 1 percent of the 199,903 bus entries during fiscal years 2011 and 2012. In El Paso County, FMCSA inspected less than one bus or driver per day, or 1 percent of the 46,613 bus entries over the 2-year period.

Table 4. FMCSA and State Passenger Carrier Inspection Rates in the Six Highest Volume Counties, Fiscal Years 2011 and 2012

Primary Border Crossings	County	Bus Entries	Inspections	Inspection Rate*		Total Inspection Rate*
				FMCSA	State	
San Ysidro, Otay Mesa	San Diego	199,903	9,042	0.5	4	5
Lincoln-Juarez	Webb	83,674	5,770	4	3	7
BOTA, Paso Del Norte	El Paso	46,613	920	1	1	2
Hidalgo	Hidalgo	41,362	948	2	0.1	2
Nogales Mariposa, Nogales DeConcini	Santa Cruz	17,476	7,154	37	4	41
Veterans Bridge	Cameron	14,613	4,448	26	4	30
Total 9 Primary Crossings (6 Counties)		403,641	28,282	4	3	7
Total Low Volume Counties		17,810	5,548	10	21	31

*Inspection rates rounded.

Source: Bus entry data obtained from BTS, based on CBP data. Inspection data obtained from MCMIS.

Our analysis also indicated that bus entries in the six highest volume counties declined 10 percent since 2009, yet FMCSA and State passenger carrier inspections in those counties declined by 19 percent—nearly twice the decline in entries (see table 5). In addition, FMCSA's inspections actually decreased by 43 percent—offset by a 76-percent increase in State inspections during the same time period. However, most of the State increase was attributable to school bus inspections in California. For example, 45 percent of State inspections in San Diego County were inspections of United States-domiciled school buses not likely to cross the border.

Table 5. Changes in Bus Entries Versus Changes in Passenger Carrier Inspections in the Six Highest Volume Counties, Fiscal Years 2009 Through 2012

Primary Border Crossings	County	FY 2012 Bus Entries	Percent Change in Bus Entries	FY 2009 Inspections	FY 2012 Inspections	Percent Change in Total Inspections	Percent Change in FMCSA Inspections
San Ysidro, Otay Mesa	San Diego	101,658	-8	1,839	4,484	+144	+132
Lincoln-Juarez	Webb	38,758	-7	4,795	2,832	-41	-54
BOTA, Paso Del Norte	El Paso	22,849	+12	605	400	-34	-41
Hidalgo	Hidalgo	21,510	-31	1,126	456	-60	-60
Nogales Mariposa and DeConcini	Santa Cruz	8,212	-26	5,819	3,779	-35	-41
Veterans Bridge	Cameron	7,693	-8	3,122	1,981	-37	-40
Total		200,680	-10	17,306	13,932	-19	-43

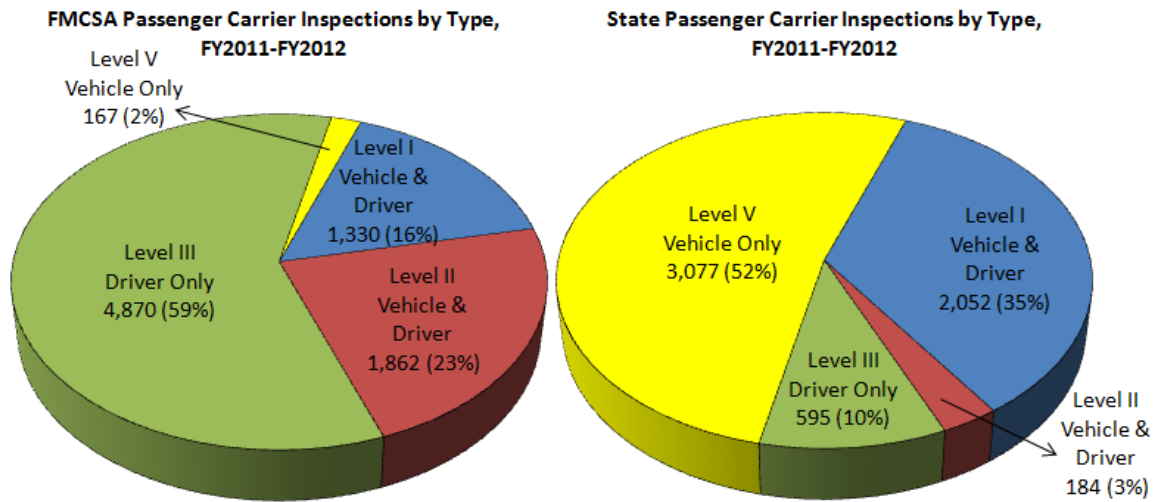
Source: Bus entry data from BTS, based on CBP data; inspection data from MCMIS.

Further, our analysis indicates that FMCSA conducts mainly Level III (driver-only) inspections while States conduct mainly Level V (vehicle-only) inspections (see figures 1 and 2). Level V inspections are typically scheduled inspections, and FMCSA's 2013 Commercial Vehicle Safety Plan states that scheduled inspections are less reliable than unannounced inspections for detecting violations and assessing the vehicle's operating condition. Overall, State inspectors performed more Level I complete driver and vehicle inspections than FMCSA: approximately 35 percent of States' inspections were Level I, and 16 percent of FMCSA's inspections were Level I.¹³

¹³ By comparison, FMCSA and State inspectors performed Level I truck inspections at a 67-percent rate in high-volume counties during fiscal years 2011 and 2012.

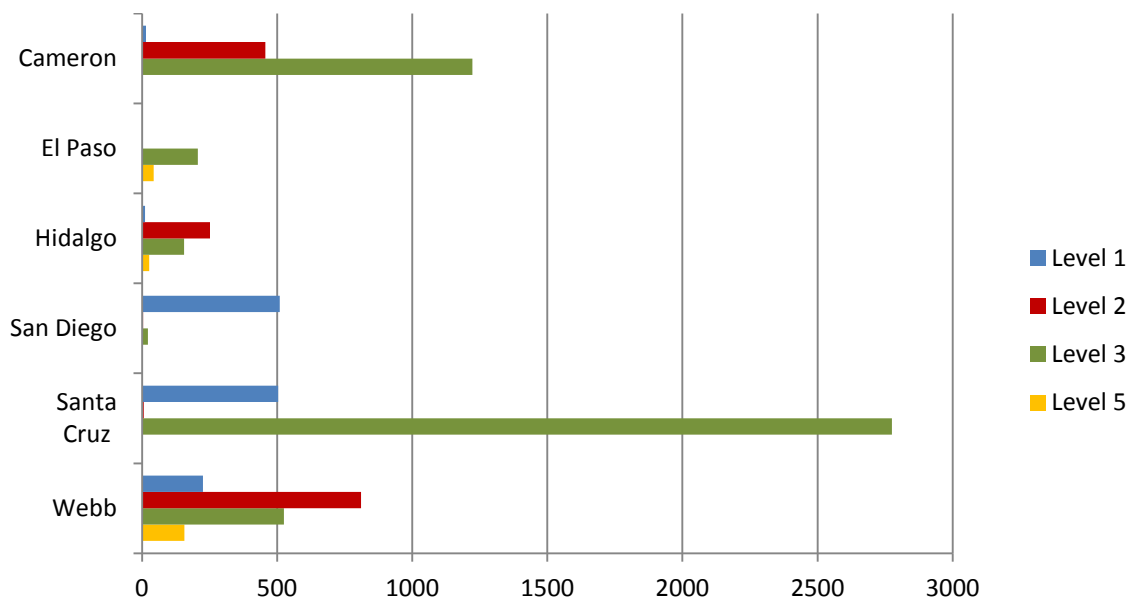
Exhibit F. Additional Details on OIG Analysis of FMCSA's Border Inspection Data

Figure 1. FMCSA and State Passenger Carrier Inspections by Level, Annual Averages from Fiscal Years 2011 and 2012



Source: Inspection data obtained from MCMIS.

Figure 2. FMCSA Passenger Carrier Inspections by Level and County, Fiscal Year 2012



Source: Inspection data obtained from MCMIS.

Exhibit F. Additional Details on OIG Analysis of FMCSA’s Border Inspection Data

EXHIBIT G. MAJOR CONTRIBUTORS TO THIS REPORT

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APPENDIX. AGENCY COMMENTS



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

Memorandum

Subject: **ACTION:** Response to OIG Draft Report on
NAFTA Cross-Border Safety Requirements

Date: November 19, 2013

From: Anne S. Ferro
Administrator

Reply to: MC-P

To: Joseph W. Comé
Assistant Inspector General
for Highway and Transit Audits

This is in response to your September 23 memorandum providing me the opportunity to comment on the Office of the Inspector General's draft report, "Improvements Needed in FMCSA's Plan for Inspecting Buses at the United States-Mexico Border," project number 12M3003M000. We have completed our review of the draft report and concur with the recommendations. A detailed response is provided below.

THE FMCSA HAS IMPROVED BUS SAFETY AT BORDER LOCATIONS

The Federal Motor Carrier Safety Administration (FMCSA) has incorporated strategies to improve its ability to better identify at-risk bus operations and enhance its ability to remove unsafe operations from the Nation's roadways. Specifically, FMCSA provided training to its inspectors and special agents, including those at the border, on enhanced investigative techniques. The FMCSA has since observed a marked improvement in its ability to identify and address unsafe bus operations. For example, the vehicle out-of-service (OOS) rate for buses entering the United States from Mexico increased from 11.83% in FY2007 to 22.24% in FY2013.

Additionally, the FMCSA's investigations have resulted in enforcement of cross-border bus operations that are based in the United States. In FY2013, the FMCSA declared two cross-border bus operations to be imminent hazards and placed both OOS.

THE FMCSA CONTINUES TO IMPROVE BUS SAFETY AT BORDER LOCATIONS AND DESTINATIONS

The FMCSA continues to address bus safety along the border and seek improvement where there is less opportunity to safely inspect buses as they cross into the United States. Specifically, in Laredo, Texas, FMCSA is working closely with the General Services Administration (GSA) and the U.S. Customs and Border Protection (CBP) as they redesign a major bus port of entry (POE), which is also the largest bus crossing in Texas. The redesign of the Laredo POE will include a facility that is specifically intended for bus inspections, which will be a first for FMCSA. In addition to a dedicated inspection facility, FMCSA

has purchased new mobile inspection trailers that will be used to facilitate bus inspections, both at POEs and locations away from the border.

The FMCSA continues to build strong relationships throughout the southern border with CBP and States, allowing its special agents to spend additional time on CBP property and complete additional bus inspections. For example, FMCSA personnel coordinate closely with CBP and the California Highway Patrol at the Calexico East POE to conduct quarterly inspection strike forces. This coordination allows for enforcement action to take place where FMCSA personnel are not normally able to conduct inspections because of space and facility limitations. Additionally, during the weeks leading up to Easter and Thanksgiving, FMCSA personnel in the Laredo, Texas area regularly conduct 24-hour inspection details. The weeks leading up to these two holidays are some of the busiest times of the year for cross-border bus traffic. The 24-hour details are staffed by FMCSA and Texas Department of Public Safety personnel.

Furthermore, FMCSA is working diligently to maintain and develop its non-governmental partnerships to ensure it has a robust bus inspection program. For example, the FMCSA has developed relationships with Native American Tribal leaders who have granted access to facilities for the purpose of conducting bus inspections at destinations, such as casinos, parks, and other tourist attractions.

RECOMMENDATIONS AND RESPONSES

Recommendation 1: “Complete the staffing assessment being conducted by the Volpe center.”

Response: Concur. The Research and Innovative Technology Administration’s John A. Volpe National Transportation Center (Volpe) is currently conducting a staffing assessment for FMCSA. Volpe is in the process of completing its analysis and preparing its final report. The FMCSA anticipates completing this effort by December 31, 2013.

Recommendation 2: “Eliminate the backlog of conviction reports and confirm that the vendor complied with quality controls for managing and processing convictions.”

Response: Concur. The FMCSA’s contractor completed its review of the paper conviction reports. There is no remaining backlog of conviction reports. The North American Borders Division will be monitoring the electronic convictions for data quality and timeliness of entry into the system so that drivers are promptly disqualified, as needed. We have separately provided the OIG with appropriate documentation and ask that this recommendation be considered closed, final action complete.

Recommendation 3: “Update and periodically review the bus safety plan to (a) address frequency of border inspections based on evaluation of traffic volume and available resources, and link alternative strategies to the specific crossings; (b) identify the rationale for variations in inspection coverage and for conducting different levels of inspections; and, (c) detail mitigation strategies to address gaps between traffic volume and inspection coverage.”

Response: Concur. The FMCSA will update its bus safety plan for border operations to address the frequency of bus inspections at each border crossing based upon traffic volume and resources; establish targeted inspection rates and plans for each crossing, taking into account both Federal and State resources; specify targeted inspection levels (i.e., 1-5) at each crossing, taking into

Appendix. Agency Comments

account location capacity and safety; and explore alternative inspection strategies to augment bus inspections and address gaps in inspection coverage when established inspection frequencies cannot be met. The FMCSA will complete the update of its bus safety plan by March 31, 2014, and update the plan every 24 months thereafter, unless special circumstances dictate shorter update intervals.

Recommendation 4: “Complete the feasibility assessment to address the challenges associated with inspecting passenger carriers.”

Response: Concur. The FMCSA has entered into a feasibility study with the GSA and CBP to assess where and how FMCSA can inspect buses in a safe and effective manner. This study is expected to be completed by August 30, 2014.

Recommendation 5: “Negotiate a written agreement with United States Customs and Border Protection, at the Headquarters level, to establish standard inspection protocols for safe and efficient bus inspections across the border.”

Response: Concur. The FMCSA concurs with the intent of this recommendation, which it believes to be the establishment of a written agreement with CBP to ensure continued access to CBP facilities for the purpose of conducting bus inspections that will not be interrupted in the event of personnel changes at these facilities. Upon completion of the feasibility study with GSA and CBP addressed in Recommendation 4, FMCSA will initiate negotiations for a written agreement with CBP at the headquarters level to address bus inspection protocols at border locations by December 31, 2014.

The challenges to implementing this recommendation will be the finite space at border locations and concurrent action by the CBP to enter into such an agreement. The FMCSA anticipates that, should these negotiations not achieve final written agreement despite best efforts, the OIG would close this recommendation based upon a review of the Agency’s documentation demonstrating good faith efforts to enter into a written agreement.

Additionally, the Department is currently negotiating a separate memorandum of agreement with CBP for the purpose of sharing trucking information and data from inbound Mexican trucks. As a part of the current negotiations, FMCSA will seek the inclusion of CBP bus destination information and data, if it is available. If this information and data is available, it will assist FMCSA in implementing alternative enforcement strategies to improve bus safety.

Thank you for this opportunity to offer our perspective on the OIG’s draft report. We also appreciate the courtesies and professionalism of the OIG staff in conducting this review. Please contact Anne Collins, Associate Administrator for Field Operations, by telephone at (202) 493-0013 with any questions or requests for additional assistance.