

REPORT CARD: *FMCSA Pilot Program Safety Failures*

FMCSA's Assignment . . .	FMCSA's Performance . . .	GRADE
Provide sufficient opportunity for public notice and comment	FMCSA allows only 20 days for public notice prior to requiring submission of public comment, 10 less than standard 30-day public comment period	F
Provide public with information about the Pilot Program	Secretary Peters denies there is a pilot program; FMCSA provides no details on Mexican regulations or Memorandums of Understanding; FMCSA refuses to provide records in response to Freedom of Information Act (FOIA) request.	F
Comply with requirements of §350 of the FY2002 DOT Appropriations Act on the Safety of Cross-Border Trucking	FMCSA has not complied with requirements for: <ul style="list-style-type: none"> ▶ bus inspection facilities; ▶ a comprehensive database of driver violations while operating in U.S.; and, ▶ hazardous materials transportation agreement. 	F
Comply with requirements of the Pilot Program law to test innovative approaches and alternative regulations for motor carrier safety under 49 USC §31315(c)	FMCSA fails to show how the demonstration project meets most elements required for pilot programs: <ul style="list-style-type: none"> ▶ No plans for data collection and analysis; ▶ No method for safety comparison; ▶ No assurance of statistically valid findings; ▶ No oversight plan to ensure the safety of either the public or project participants; ▶ No countermeasures to protect the health and safety of the public or project participants; ▶ No plan to identify participants to the public; and, ▶ No intent to file report with Congress. 	F
Keep promise of “every truck-every time”	FMCSA explains that participating <u>trucks will not be inspected</u> every time they cross the border, but only that it will check the driver’s license and whether the truck has a valid 90-day inspection sticker. The DOT Inspector General has questioned whether even this superficial 15-second check will take place for every truck, every time.	F
Publish information on 5 topics: 1) pre-authorizations safety audits; 2) specific public health and safety measures; 3) English proficiency compliance and prohibition of point-to-point deliveries in U.S.; 4) specific standards to evaluate pilot program; and, 5) list Mexican regulations that will be accepted by U.S. authorities as equivalent to U.S. regulations.	Although the FMCSA specifically addressed the 5 areas and provides tables on the pre-authorization safety audits, only limited new information is actually provided on these topics in the agency notice. The agency mostly provides conclusory assertions with little detail and few facts to support its assertions. (See “Opening the Border-Shutting Out Safety” document at pp. 8-11 for detailed explanation of failures to provide useful information in response to the publication requirement).	D
Establish criteria that are subject to monitoring during the Pilot Program	FMCSA has not established that pilot program has (1) mechanisms to determine whether there will be an adverse effect on safety, (2) monitoring and enforcement to ensure compliance by participants, and (3) a representative sample of Mexican-domiciled motor carriers.	F