

Comments of the California Trucking Association (CTA) regarding North American Free Trade Agreement (NAFTA) Demonstration Project-Trucking Provisions. Federal Motor Carrier Safety Administration (FMCSA), Docket No. FMCSA-2007-28055.

The California Trucking Association (CTA) supports the principles embodied in the North American Free Trade Agreement (NAFTA) because of its importance to California cross-border trade. Cross-border commerce with Mexico, California's largest trading partner, has grown 20% annually and the majority of that trade is transported by trucks.

However, CTA believes that the NAFTA Demonstration Project, recently announced by the U.S. Department of Transportation (DOT), will have an adverse impact on California's air quality and will seriously damage California's native trucking industry.

Specifically, the NAFTA Demonstration Project will: 1) Create an unlevel and unfair market for trucking services; 2) Not provide the resources to ensure that enforcement of NAFTA carrier rules will be enforced in California; 3) Allow Mexican domiciled carriers to avoid compliance with United States and California employee and employer tax and medical responsibility requirements; 4) Allow Mexican domiciled carriers to operate in California without complying with the Private Fleet Rule; 5) Allow Mexican domiciled carriers to operate in California without complying with California emission standards; and 6) Allow Mexican domiciled carriers to operate in California without complying with United States and California labor laws, including minimum wage and overtime provisions.

Any opening of the border to Mexican trucking companies must provide comparable opportunities for California-based trucking companies wishing to operate within the other NAFTA countries. Such reciprocity must be in place prior to fully opening the border. As soon as the NAFTA Pilot Program announcement was made, a Mexican domiciled carrier could apply to operate past the current 20-25 mile restricted commercial zone and applications were made available on the DOT web-site. At the time of the announcement of the NAFTA Demonstration Project and for weeks following, there were no applications on the Secretaria de Comunicaciones y Transportes (the FMCSA counterpart in Mexico) web-site for California domiciled carriers to apply to operate in Mexico. CTA has been informed that these applications would not be available for at least 6 months. This is not fair to California domiciled trucking companies and is a clear violation of the reason for NAFTA – fair trade. CTA has always advocated for a level playing field for California and beyond.

It can be reasonably expected that without adequate enforcement, some Mexican domiciled carriers will undertake the underground practice of taking intrastate loads, undercutting California-based intrastate haulers. With the inability of the current enforcement structure to catch and cite international carriers for NAFTA violations of this type, California-based intrastate haulers will be further disadvantaged once NAFTA is fully implemented. If an international hauler has access to the entire highway system in the state, there is little to stop them from transporting an intrastate load once they are past the 20-25 mile restricted zone. There are specific laws forbidding international trucks operating under NAFTA to haul intrastate cargo. These carriers, by law, are allowed to only transport international designated freight. The NAFTA intrastate provisions need to be enforced on these carriers uniformly and across the board; they cannot be allowed to break an international trade agreement in order to make a quick buck at the expense of California-based trucking companies.

Mexican domiciled carriers who will be allowed to operate in the United States will not be required to comply with Federal and State requirements regarding the provision of employee medical and job termination protection for their drivers. When a driver for a Mexican domiciled carrier gets injured while operating in the United States, the American public (through taxes and

higher insurance premiums) will pay for the medical and other services provided to the injured driver. On the other hand, California-based trucking companies must bear this cost.

The California Air Resources Board (CARB) has announced that it will promulgate a Private Fleet Rule within the next year that will require California trucking companies to either replace their vehicle or, alternatively, install expensive emission controls on their trucks. Since companies whose trucks are domiciled in Mexico will not be covered by this rule, California trucking companies will be at an economic disadvantage when compared to their Mexican domiciled competitors in this regard. How is this considered a level playing field?

The State of California requires that only a special blend of low sulfur diesel fuel be sold in the state. However, Mexican companies whose trucks have an 1800 mile radius will be able to fuel their vehicles with substantially less expensive as well as environmentally inferior diesel fuel outside of California and burn this fuel in California. This will both cause harm to California's environment and will further disadvantage California-based carriers that must purchase the more expensive California-required fuel to comply with state emission standards.

These cost issues will be further exacerbated because Mexican domiciled trucking companies are not required to comply with United States and California labor laws, including minimum wage levels and overtime requirements. Mexican trucks driven by low-wage drivers will be able to readily undercut the transportation rates of native motor carriers. Any response by California-based companies to compete with Mexican carriers will squeeze the wages of native drivers. This will impact an already large driver shortage in the trucking industry.

These issues must be addressed and resolved in order for the citizens of all NAFTA countries to realize the benefits of the provision of fair and equitable competition in the provision of services across our borders. No country or industry should be put at a competitive disadvantage under the guise of fair trade. The California-based trucking industry will be harmed if these issues are not resolved prior to allowing Mexican domiciled trucking companies to provide trucking services in California.

Thank you in advance for addressing the California Trucking Association's concerns with the NAFTA Demonstration Project.

Thank you,

A handwritten signature in cursive script, appearing to read "Eric Sauer".

Eric Sauer
Vice President Policy Development
California Trucking Association