

Motor Carrier Safety Advisory Committee (MCSAC)  
Task Statement

Task #09-02

I. TASK TITLE

Provide advice and guidance to FMCSA on the essential elements that the Agency should include when drafting new proposed legislation to permit Mexico-domiciled trucks beyond the current commercial zones along the U.S.-Mexico border.

II. BACKGROUND

On March 11, 2009, the President signed into law the Omnibus Appropriations Act, 2009, Pub. L. 111-8, 123 Stat. 524. Section 136 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (Division I, title I of the Omnibus Appropriations Act, 2009) provides: “[N]one of the funds appropriated or otherwise made available under this Act may be used, directly or indirectly, to establish, implement, continue, promote, or in any way permit a cross-border motor carrier demonstration program to allow Mexican-domiciled motor carriers to operate beyond the commercial zones along the international border between the United States and Mexico, including continuing, in whole or in part, any such program that was initiated prior to the date of the enactment of this Act.”

In accordance with section 136, FMCSA has terminated the cross-border demonstration project. The Agency has ceased processing applications by prospective project participants and has taken other necessary steps to comply with the provision. The President tasked the Department of Transportation to work with the U.S. Trade Representative and the Department of State, along with leaders in Congress and Mexican officials, to propose legislation creating a new trucking project that will meet the legitimate concerns of Congress and NAFTA commitments.

*Safety Oversight Challenges*

Congress has opposed the project in the past because of concerns about the process that led to the program’s establishment and operation. In addition, the Department of Transportation’s Office of the Inspector General (OIG) and other stakeholders have identified certain safety challenges they believe serve as impediments to the full and safe opening of the U.S-Mexico border to Mexico-domiciled trucking operations beyond the commercial zones. Some of those challenges are discussed below.

The OIG expressed concern that the number of Mexico-domiciled carriers that participated in the now-discontinued demonstration program was not sufficient to yield statistically valid results and that in some respects, the participating carriers were not representative of the range of trucking operations that would ultimately seek authority to operate beyond the commercial zones.

Congress and the OIG have both questioned whether necessary and appropriate Federal and State oversight controls were in place to monitor the Mexico-domiciled carriers in the demonstration project. The purpose of additional oversight would be to provide key quality control measures.

Congress and the OIG expressed concern that Mexico’s Federal government lacks a centralized database of crash reports, vehicle inspections, and driver violations. While the Mexican government has indicated that it is developing such a database, Congress has indicated that a centralized database should be up and running before any new project resumes.

Congress and various stakeholders have also expressed concern whether there is parity between the safety standards and conditions of the United States and Mexico. They have expressed specific concerns about differing standards for drug and alcohol testing of Mexico-domiciled and U.S.-domiciled drivers including uncertainties about the chain of custody for the specimens and uniformity of laboratory standards.

III. TASK

The FMCSA requests that the Committee provide a letter report to the Agency identifying the essential elements that the Agency should include when drafting new proposed legislation to permit Mexico-domiciled trucks beyond the current commercial zones along the U.S.-Mexico border. The Committee should consider the top safety concerns raised by the Congress, the OIG and others; and offer a framework that recognizes the sovereignty of Mexico as well as the need to operate safely on U.S. roads.

The FMCSA will work with the U.S. Trade Representative and the Department of State, along with leaders in Congress and Mexican officials, to propose legislation creating a new trucking project that will meet the legitimate concerns of Congress and NAFTA commitments. FMCSA will be working very closely with safety advocates, labor organizations and other stakeholders as we develop this proposal. To facilitate this effort, certain components of the Agency's proposal may be shared with the MCSAC as background information for use in the development of the letter report.

IV. ESTIMATED TIME TO COMPLETE TASK

The FMCSA requests that the Committee submit a letter report outlining its findings at the May 2009 Committee meeting in order to meet the Agency's timeline for developing proposed legislation. The report may be submitted in parts to address specific components of proposed legislation, if this would facilitate a more timely response to FMCSA.

V. FMCSA TECHNICAL REPRESENTATIVES

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