

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2007-28055]**

**Demonstration Project on NAFTA Trucking Provisions**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Extension of Demonstration Project

**SUMMARY:** FMCSA announces the extension of the demonstration project allowing up to 100 Mexico-domiciled motor carriers to operate beyond the U.S. border commercial zones, and the same number of U.S. carriers to operate in Mexico, from one year to the full three years allowed by statute, 49 U.S.C. 31315. Reciprocally, Mexico has agreed to allow U.S.-domiciled motor carriers in the demonstration project to continue to operate in Mexico for up to three years.

**DATES:** This notice is effective upon publication.

**FOR FURTHER INFORMATION CONTACT:** Mr. Milt Schmidt, Division Chief, North American Borders Division, Federal Motor Carrier Safety Administration, Telephone (202) 366-4049; e-mail [milt.schmidt@dot.gov](mailto:milt.schmidt@dot.gov).

**SUPPLEMENTARY INFORMATION:**

Secretary of Transportation Mary E. Peters and Mexico's Secretary of Communications and Transportation Luis Téllez Kuenzler announced a demonstration project to implement certain trucking provisions of the North American Free Trade Agreement (NAFTA) in February 2007. The project was expected to last one year. FMCSA's notice inaugurating the project stated that "[t]he demonstration project has a one-year limit" (72 FR 23883, 23884, May 1, 2007).

Shortly thereafter Congress required the Department of Transportation (DOT) to satisfy a series of new conditions before starting the demonstration project. *See* section 6901 of the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007” [hereafter: “Iraq Supplemental”], Pub. L. 110-28, 121 Stat. 112, 183, May 25, 2007. Section 6901 imposed limits on DOT’s use of appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the border commercial zones. In particular, section 6901(a) required that the granting of such authority be tested as part of a pilot program meeting the requirements of 49 U.S.C. 31315(c) and that the pilot program also comply with the requirements of section 350 of Public Law 107-87 (115 Stat. 833, 864, December 18, 2001). Section 350, enacted by the 2002 DOT Appropriations Act and reenacted in every subsequent annual DOT appropriations act, set forth additional requirements FMCSA must meet as a condition of granting Mexico-domiciled motor carriers authority to operate in the United States. A pilot program under § 31315(c) must include, among other things, a “scheduled life . . . of not more than 3 years.”

As demonstrated in the Federal Register notices of June 8 and August 17, 2007 (72 FR 31877 and 72 FR 46263, respectively), FMCSA met all of the conditions established by section 6901 of the Iraq Supplemental, including compliance with section 350. The demonstration project was initiated on September 6, 2007, after Secretary Peters submitted to Congress the Department’s response to the report by the DOT Office of Inspector General verifying compliance with section 350, as required by section 6901(b)(1) and (b)(2)(A). FMCSA issued provisional operating authority to the first Mexico-domiciled motor carrier the same day. However, uncertainties concerning the

length and viability of the demonstration project may have deterred a significant number of carriers, both from Mexico and the United States, from seeking to participate in the project. For example, many Mexico-domiciled motor carriers who previously expressed an interest in operating beyond the border commercial zones have not pursued such authority through the demonstration project. Additionally, we have been advised that other Mexico-domiciled carriers who received approval for project participation are not participating because they are reluctant to incur substantial costs related to obtaining insurance to operate in the United States and developing a customer base for long-haul operations, in the face of these uncertainties. The result is that the number of Mexico-domiciled carriers operating under the demonstration project is smaller than expected: currently, 27 carriers are operating 107 trucks. Although these carriers have made 9,983 trips into the United States, most of these carriers had destinations in the commercial zones; they have performed 1,272 long-haul trips beyond the border zones.

Concurrently, many U.S.-domiciled motor carriers have expressed concern at the high cost of maintaining an official legal representative in Mexico, especially due to their belief that a minimum of two years is needed to develop sustainable business relationships with Mexican shippers. This has resulted in a limited number of U.S. carriers participating in the demonstration project. At the moment, only 10 U.S. carriers are participating and they are operating only 55 vehicles. They have made 2,245 trips across the Mexican border.

In order to ensure the demonstration project can be reviewed and evaluated on the basis of a more comprehensive body of data, FMCSA has decided to extend the project from one year up to the full three years allowed by statute. The U.S. and Mexico will

continue to limit the project to a maximum of 100 of each other's motor carriers and will provide for reciprocal authority. In addition, the U.S. will require participating Mexican carriers and drivers to comply with all applicable U.S. laws and regulations. The extension will enable FMCSA to collect and analyze a larger volume of safety and operational data, which is the fundamental goal of the demonstration project. We believe an extension will provide non-participating motor carriers, both in Mexico and the United States, added incentives to join the project, knowing that their investment in long-haul foreign operations will have more time to mature and become profitable.

Issued on: July 31, 2008

John H. Hill  
Administrator

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