



June 28, 2007

Mr. John H. Hill, Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

**Comments on Demonstration Project on NAFTA Trucking Provisions, Request for
Comments, 72 Fed. Reg. 31877, Docket No. FMCSA-2007-28055**

Dear Administrator Hill:

Public Citizen appreciates the opportunity to comment on the proposed pilot program for Mexico-domiciled trucks. We are filing these comments in addition to comments filed in conjunction with the Sierra Club, Environmental Law Foundation, International Brotherhood of Teamsters, Brotherhood of Teamsters, Auto and Truck Drivers, Local 70, and Owner-Operator Independent Drivers Association. Despite the Federal Motor Carrier Safety Administration's (FMCSA) revised notice, the details regarding the Demonstration Project on NAFTA Trucking Provisions are still woefully inadequate. The outlined program fails in numerous ways to meet the requirements of section 6901 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110-28). The safety of the public on our highways is at risk, but FMCSA nevertheless continues to ignore congressional enactments intended to protect the public.

Further, FMCSA has brazenly pushed forward with the demonstration project without providing sufficient time for public notice and comment, allowing just 20 days for comment instead of the usual 30. This failure is compounded by the agency's failure to provide the public with sufficient information about the program despite Freedom of Information Act (FOIA) requests and congressional demands for documents. This supplemental notice shows that FMCSA is once again prepared to disregard congressional mandate, public opposition, and judicial requirements in order to push forward the pilot program. Public Citizen demands that the comment deadline be extended until 60 days after all relevant information has been released to the public.

Public Citizen urges the Department of Transportation not to rush blindly to open our southern border. The pilot program should be delayed until an adequately informed public has time to critically comment on the project and FMCSA has met the requirements of section 6901 of the Iraq Accountability Appropriations Act.

I. FMCSA Has Not Provided Sufficient Opportunity for Public Comment.

The Department of Transportation (DOT) continues to show a marked indifference toward public comment on the proposed pilot program. Section 6901(b)(2)(B) of the Iraq

Accountability Appropriations Act requires publication of the proposed program in the *Federal Register* and for the agency to “provide sufficient opportunity for public notice and comment.” Instead of complying with this simple requirement, FMCSA has offered an inadequate comment period and large information gaps, so that the public has neither adequate notice nor a sufficient opportunity to comment.

FMCSA signed the recent notice on June 5, 2007, and it appeared in the *Federal Register* on June 8, 2007.¹ FMCSA required receipt of comments no later than June 28, 2007, leaving the public just 14 business days to thoroughly review and critique the proposal.² This abbreviated window is wholly inadequate and raises serious concerns about FMCSA’s lack of deference toward congressional legislation and the agency’s duty to the public. The agency is no doubt well aware that 30 days is the traditional minimum notice window for public comment. In fact, the agency has provided between 30 and 60 days for comment in at least its last 20 requests for comments.³

Additionally, the supplemental notice incorporates extensive new information that cannot be adequately reviewed in just 14 business days. The initial notice for the pilot program was only four pages.⁴ The supplemental notice is 18 pages in the *Federal Register*. It responds to recent legislation and contains dense charts and tables that are not adequately explained and cannot be independently verified. While the agency allowed 30 days for comment on the initial notice, the agency now considers it appropriate to request comments on nearly five times the information in a third less time. Furthermore, the *Federal Register* notes that the electronic docket website was unavailable from June 13 through June 17, 2007,⁵ limiting public access to relevant information and effectively truncating the comment period even further.

Moreover, records regarding the development of the pilot program are still unavailable for public review and critique. Advocates for Highway and Auto Safety (Advocates) requested information regarding the administration’s plan in October 2006 under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. FMCSA did not provide records in response to the request, and four months later Advocates filed suit to secure access to the information. Now, seven months after the initial FOIA request, FMCSA still has not provided the information to which Advocates and the public are legally entitled. In fact, the Department of Transportation has requested a ridiculous two-year stay on the FOIA request, due to the voluminous records compiled for response. Under FMCSA’s current proposal, the pilot program will have been long completed by the time the two-year stay has expired.

Surely the public cannot be expected to adequately comment on the proposed pilot program in just 20 days while FMCSA requires over two-and-a-half years to simply compile the records for legally mandated dissemination. FMCSA’s request for a two-year stay in fulfilling its FOIA obligation also calls into question the agency’s knowledge and mastery of the information necessary to conduct the program.

Furthermore, Public Citizen objects to FMCSA’s tardy submission of additional information to the NAFTA docket. FMCSA submitted 20 documents, totaling 358 pages, at the end of the business day on Friday, June 22, 2007. This left just four business days for review of these documents and incorporation into our comments. Given that FMCSA claims it requires two

years to compile all records relevant to the pilot project, Public Citizen believes it is fair to assume that these documents are only a mere fraction of those necessary to comprehensively review the program. Given this assumption, as well the limited timeframe provided to review the materially, Public Citizen refuses to declare whether these documents satisfy any of the claims listed below until sufficient time for thorough and appropriate review is provided.

It is wholly inappropriate for FMCSA to request public comments without an adequate timeframe or the factual background requested by both Advocates and Congress from which to work. The comment period should accordingly be extended until 60 days after all the documents have been made available for public inspection and comment.

II. The DOT Demonstration Project on NAFTA Trucking Provisions Fails to Comply with Section 6901 of the Iraq Accountability Appropriations Act.

Section 6901 of the U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007⁶ establishes new requirements that must be met before the DOT can begin allowing Mexico-domiciled carriers to operate across the border. FMCSA has failed to meet both the new and reiterated requirements dictated by Congress. Consequently, the pilot program should be delayed until the Department of Transportation first complies with the law.

It is apparent from the elements of the Iraq Accountability Appropriations Act that Congress is deeply concerned about the safety risk opening the southern border to long-haul trucks poses to the American people. Despite this concern, FMCSA has chosen to push forward with its pilot program, essentially declaring that it has met all of the congressionally mandated requirements without providing suitable verification either in the notice or through public release of records.

The agency's notice highlights its inability to meet, or even address, the various safety concerns raised by Congress. The June 8, 2007 *Federal Register* notice issued by FMCSA claims compliance with section 6901(a)(2) in a merely cursory fashion. FMCSA's response to section 6901(b)(2)(B) does not disclose an adequate amount of information for public critique and comment. FMCSA also fails to meet section 6901(a)(2) and the existing requirements of section 350 of Public Law 107-87 and the requirements for conducting pilot programs in 49 U.S.C. § 31315(c).

A. FMCSA Failed to Provide Adequate Information under Section 6901(b)(2)(B).

Subsection (b)(2)(B) of section 6901 of the Iraq Accountability Appropriations Act requires publication and sufficient opportunity for public notice and comment on details in five areas:

- (i) comprehensive data and information regarding the pre-authorization safety audits of Mexico-domiciled trucks granted authority to operate in the United States;
- (ii) specific measures to protect the health and safety of the public, including enforcement mechanisms and penalties for noncompliance;

- (iii) specific measures to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations, requiring drivers to have English language proficiency and prohibiting point-to-point freight transportation within the United States;
- (iv) the specific standards used to evaluate pilot program and compare any change in the level of motor carrier safety that results from the pilot program; and
- (v) a list of U.S. motor carrier safety laws and regulation for which the Secretary of Transportation will accept compliance with a corresponding Mexican law, including for each law or regulation an analysis of how the corresponding laws and regulations differ.

1. FMCSA Has Not Met Pre-Authorization Safety Audit (PASA) Requirements.

FMCSA spends a significant portion of the notice addressing the PASA information for the 107 motor carriers reviewed for the pilot program. While the agency's notice contains a detailed explanation of the contents of the columns of each attached table, the notice fails provide any sort of analysis of the information provided.

Upon examination of FMCSA's seeming mass of data, a number of the most basic elements of the PASA information reveal troubling trends. Most notably, 6 of the 33 motor carriers listed as having "passed" the PASA are not listed as having met the five mandatory safety elements required for column J. The fact that it is unclear whether or not nearly one fifth of the motor carriers asserted to have "passed" the PASA have actually met FMCSA's mandatory requirements is an alarming error in the agency's data. Furthermore, there is no explanation as to why a plurality of the carriers withdrew their applications and whether this fact should be read as an admission of failure or not.

The information provided also does nothing to ease concerns about FMCSA's inability to conduct effective reviews. The National Transportation Safety Board (NTSB) has criticized FMCSA's poor record of compliance reviews in testimony before the Senate Commerce, Science and Transportation Committee on May 1, 2007: "The Safety Board has documented several instances in which carriers have received favorable compliance review ratings despite long and consistent histories of driver- and vehicle-related violations."⁷ FMCSA has provided no evidence that it has improved its ability to conduct effective compliance reviews of domestic carriers, much less Mexico-based carriers.

Finally, there is no explanation by the agency as to how the current "passed" rate of 33 out of 107 applicants leads to an adequate and statistically relevant study group for the pilot program. Absent more information from FMCSA, there is no way to refute the conclusion that FMCSA is either self-selecting the best Mexico-domiciled motor carriers to ensure the success of the pilot program or is having difficulty finding motor carriers that can meet even the most basic safety regulations.

2. FMCSA Identified No Measures to Protect the Public Health and Safety.

Congress demanded FMCSA provide “specific measures” to protect the health and safety of the public during the program. Instead of detailed information explaining how it will protect the public, the agency instead provides a laundry list of existing motor carrier regulations that do in fact exist, but with no explanation for how they will be enforced. In addition, the agency offers a 28-page application with up to 35 safety and compliance certifications as further proof of compliance with the health and safety requirement, but it provides no information regarding what information is required for the application or what safety and compliance certifications will be necessary for participation.⁸

Given FMCSA’s poor record in overseeing motor carrier safety, the agency’s public health and safety assertions should not be accepted on faith. The agency has not met safety goals for which it was formed in 1999. Significant safety regulations have been unanimously overturned by the courts. As NTSB member Debbie Hersman recently observed, “[FMCSA] lack[s] the inspectors to conduct safety reviews of at-risk domestic carriers. That situation only gets worse if resources are diverted to the border.”⁹

FMCSA’s assurance that “any Mexico-domiciled carrier operating as part of this demonstration program will immediately be subject to suspension and revocation of its registration if it receives an Unsatisfactory safety rating” does not assure the public that such penalties can and will be enforced.¹⁰ Until the agency provides verifiable information to assure the public that the pilot program’s health and safety regulation will be effectively enforced, FMCSA cannot be deemed to have meet the requirements of this subsection.

3. FMCSA Must Identify Measures to Ensure Compliance with 49 C.F.R. 391.11(b)(2).

The Iraq Accountability Appropriations Act requires compliance with 49 C.F.R. 391.11(b)(2), which requires commercial motor vehicle operators to possess sufficient English language skills. FMCSA responds to this requirement with the most basic of standards: during border crossings, “if there *appears* to be a communication problem in English, the driver will be directed to a secondary inspection site where a full driver inspection will be conducted.”¹¹ The standard fails to define “communication problem” nor does it outline a secondary examination standard. This non-specific guideline does not fulfill the requirements of section 6901.

Section 6901 also requires compliance with section 365.501(b) of title 49 of the Code of Federal Regulations, which prohibits point to point freight transportation within the United States. The states cannot currently effectively enforce these “cabotage” rules.¹² In statements made before the Senate Appropriations Committee, Charles Parfey of the Independent Drivers Association remarked, “We can’t even enforce the cabotage rules of the Canadian carriers, how are we going to do it with the Mexican drivers?”¹³ Once a driver crosses the border, he will encounter minimal enforcement of such regulations. Under these conditions, a Mexico-domiciled driver would become an attractive option for shippers, brokers, and freight forwarders. These drivers could travel effectively unchecked point-to-point through the United States, creating an effectively unregulated labor force. This prospect raises significant safety concerns.

4. FMCSA Must Identify Specific Standards to Evaluate the Success of the Pilot Program.

In response to the statutory requirement that FMCSA provide specific standards to evaluate the pilot program, the agency provides five criteria by which the program will be evaluated.¹⁴ However, the agency failed to provide sufficient information about the most crucial element of any pilot program: thresholds used to determine success or failure of the project. The agency has already been less than forthcoming about the details of this program.¹⁵ Now, absent specific criteria against which to gauge success and failure, the agency is attempting to justify the outcome of the pilot program regardless of any contrary evidence and ram through a major change in public safety policy heedless of the consequences.

This problem is additionally compounded by FMCSA's inability to show that its sample size is statistically significant. Crash and out-of-service data collected from an insufficient sample size over a limited period of time cannot be effectively used to evaluate the safety of a pilot program. Further, reuse of data compiled during Pre-Authorization Safety Audits is not an appropriate way to evaluate the success of the enacted program. The PASA scores simply provide information about which motor carriers passed or failed initial inspection, not the performance of Mexico-domiciled drivers while operating in the United States. FMCSA must provide a more suitable method for evaluating the success of the pilot program.

5. FMCSA Must Provide a Comparison of U.S. and Mexican Laws and Regulations.

Although FMCSA does provide a plain list of United States motor-carrier laws and regulations alongside the corresponding Mexican regulations, the agency fails to provide sufficient information for the public to determine whether the standards are, in fact, corresponding. Further, while FMCSA admits that Mexico's driver disqualification standards are not identical to U.S. standards, it states it has "developed a system to monitor the performance of Mexican drivers while in the U.S. and take steps to disqualify these drivers if they incur violations that would result in a U.S. driver's license being suspended."¹⁶ The agency does not share what these steps are so the public can evaluate their sufficiency.

Additionally, the criterion used for the Mexican driver health and physical evaluations is not included. FMCSA merely represents that both U.S. and Mexican drivers undergo medical evaluations, and that they are therefore equivalent. This unsupported conclusion comes despite FMCSA's acknowledgement in pending rulemaking that commercial drivers will select health care providers who will find them physically fit to operate commercial motor vehicles whether or not they actually are fit.¹⁷ FMCSA needs to provide the public with more information regarding the specific medical tests and facilities used to evaluate Mexican truckers and how those evaluation requirements compare to U.S. rules.

B. The FMCSA Notice Does Not Comply with Section 6901(a)(2).

In section 6901(a)(2) of the Iraq Accountability Appropriation Act, Congress reiterated the requirement that any pilot program for Mexico-domiciled carriers comply with the safety regulations of section 350 of Public Law 107-87 and the pilot program guidelines found in 49 U.S.C. § 31315(c). Despite assertions to the contrary, FMCSA has failed to fulfill these requirements.

1. FMCSA Has Not Complied with § 350.

The agency has not complied with the requirements found in section 350 of the Fiscal Year 2002 DOT Appropriations Act on the safety of cross-border trucking. These requirements deal with important safety issues such as bus inspection facilities, hazardous material transportation, as well as driver drug and alcohol testing and comprehensive data collection of driver violations while operating in the United States.

First, FMCSA has attempted to side-step the issue of bus inspection and hazardous material transport by simply not allowing those carriers to participate in the pilot program. FMCSA is not meeting the requirements of section 350; rather, it is simply avoiding them.

Further, significant defects in FMCSA's data collection have been identified but not corrected. The Inspector General's January 2005 report reports that data from states were lacking on driver convictions and license suspensions. Coupled with the fact that many states at this time are not prepared to place Mexico-domiciled drivers and vehicles out of service, there is significant reason to worry that violations that are *already* occurring are going unreported, and that violations that *could* occur during the pilot program would also go unreported.¹⁸ The Inspector General also raised concerns about data quality, citing a 2004 report on the SafeStat system, which found "problems with the quality of the data in SafeStat that FMCSA used to rank motor carriers for review. . . .Based on an analysis of data from our prior audit, Mexican motor carriers show a greater number of these data quality problems, on average, than U.S. carriers. . . ."¹⁹

Section 350 requires documented proof that cross-border foreign drivers comply with all U.S. commercial driver requirements for drug and alcohol testing.²⁰ Currently, Mexico does not have any labs certified to perform drug and alcohol testing, and has been sending samples to the United States for testing.²¹ Operating under this situation hinders the ability of the agency to conduct random drug and alcohol use reviews. Further, under the pilot program, it will be necessary for both the Mexican and U.S. governments to have clear chain-of-custody and collection procedures to ensure that samples are being properly collected and are as rigorously collected as samples taken from domestic carriers. Until FMCSA has complied with these requirements, it cannot proceed with the pilot program.

2. FMCSA Has Failed to Comply with Section 31315(c).

In the June 8, 2007 notice, FMCSA states that the details contained in the notice in addition to the May 1, 2007 notice satisfy the requirements of section 31315(c). However, not

only did the May 1, 2007 notice fail to even mention section 31315(c), numerous elements in the statute have not been satisfied. The section's requirements includes a plan to identify a reasonable number of participants to yield statistically valid results, a plan to inform state partners and the public about the pilot program, a specific analysis plan that identifies a method for comparison, and adequate countermeasures to protect the health and safety of study participants and the public.

Although Congress has reiterated many of the 31315(c) requirements in section 6901(b)(2)(B), FMCSA has still been unable to fulfill them. Specifically, there is no explanation for the fact that the pilot program lasts for only one year, instead of the allowed three. It is vital that FMCSA explain how this abbreviated program and its current number of only 33 "passed" participants will be able to yield statistically valid conclusions. The U.S. DOT has a number of highly trained statisticians who could assist FMCSA if FMCSA does not employ the proper personal.

Furthermore, the Department of Transportation has not been proactive in working with government partners. FMCSA announced its intention to implement this pilot program in February of this year,²² and then two weeks later, at a hearing before a subcommittee of the Senate Appropriations Committee, Secretary of Transportation Mary Peters stated that she intended for procedures to be in place within 60 days of the announcement.²³ Senator Patty Murray requested that the Department of Transportation and the Federal Motor Carrier Safety Administration submit the details of plans for the pilot program as soon as possible to the Senate Appropriations Committee.²⁴ FMCSA still – four months later - has not fulfilled this request, even though DOT is pressing to inaugurate the pilot program this summer.

C. FMCSA Fails to Meet the Requirements of Subsection (b)(1).

Finally, subsection (b)(1) of section 6901 requires the Inspector General of the Department of Transportation to prepare a report verifying compliance with the requirements of subsection (a) of section 350 of Public Law 107-87, including whether the Secretary of Transportation has established sufficient mechanisms to apply federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate in the United States *prior* to the initiation of the pilot program. Subsection (b)(2)(A) further requires the Secretary of Transportation to take action to address any issues raised in the Inspector General's report and to submit a report to congress detailing such action. In addition, the notice fails to even mention that section 6901(b)(1) requires the DOT Inspector General to file a report verifying compliance with federal law.

III. FMCSA's Record Overseeing Motor Carrier Safety Does Not Inspire Confidence.

The agency has not met safety goals for which it was formed in 1999. Since then, significant safety regulations have been unanimously overturned by the courts. National Transportation Safety Board (NTSB) member Debbie Hersman observed in February, "[FMCSA] lack[s] the inspectors to conduct safety review of at-risk domestic carriers. That situation only gets worse if resources are diverted to the border."²⁵ The NTSB has also criticized FMCSA's poor record of compliance reviews in testimony before the Senate Commerce, Science

and Transportation Committee on May 1, 2007: “The Safety Board has documented several instances in which carriers have received favorable compliance review ratings despite long and consistent histories of driver- and vehicle-related violations.”²⁶

The haphazard manner in which this pilot program has been executed does not inspire confidence that FMCSA will be able to live up to its promise of checking “every truck, every time.” Senator Robert Bennett voiced his concern that FMCSA would not be able to live up to this promise in a March 8, 2007 hearing of the Senate Appropriations Committee.²⁷ In response to these concerns, Secretary Peters responded that the pilot program would employ dedicated inspectors, and that the participating motor carriers would display labels designating them as participants of the program.²⁸ FMCSA still has not provided information about a labeling system that will be adequate to meet these goals. Considering that FMCSA has not been able to effectively monitor the safety compliance of U.S. motor carriers, the claim that the agency is adequately equipped to implement this pilot program is disingenuous.

The agency has provided no details about how it will choose the 100 carriers for the pilot program or how many trucks will be involved. FMCSA will not be able to make statistically valid conclusions about the pilot program based on a hand-picked sample that may not be representative of the 14,000 carriers currently operating in Mexico. On the basis of the ongoing poor safety record of border-zone operations by Mexico-domiciled motor carriers, DOT asks that we accept on faith that companies from Mexico hand-picked to participate in the pilot program will not be radically different from the companies currently entering the border zone.

The number of compliance reviews conducted by FMCSA of Mexico-domiciled carriers is less than one percent of carriers operating in the border zone. Of 14,000 Mexico-domiciled carriers, only 108 compliance reviews were done in 2005.²⁹ FMCSA claims that during the pilot project “[e]ach vehicle will be checked for a valid CVSA decal *every time* it enters the U.S., and the validity of each operator’s driver’s license will also be checked.”³⁰ FMCSA has limited resources and inspectors to handle the burden of conducting compliance reviews of U.S. trucks. In 2003, just 12,000 compliance reviews were conducted out of 670,000 registered domestic carriers – this amounts to two percent of carriers.³¹ FMCSA clearly lacks the capacity to inspect both the Mexico-domiciled carriers “every time” and still properly inspect U.S. trucks.

It will be difficult to differentiate participants in the pilot program from carriers operating only in the commercial zone, and this difficulty is likely to cause delays to both pilot program participants as well as non-participants. The Secretary of Transportation explained that participants will be issued decals to identify them; however, given the limited personnel at the border, it is likely that some trucks will failed to be checked.³²

The agency has presented no description of how it intends to enforce the “every truck every time” policy it promised in its request for comments. Additionally, the notice does not suggest that new inspectors will be hired to undertake the burden, nor is there an estimate of what the burden to inspectors would be to carry out these compliance reviews nor any indication of the cost.

IV. Conclusion

FMCSA has failed to meet the safety and information related requirements for the pilot program it wants to implement. Congress has very specifically required FMCSA to provide the information and other assurances that the public will be safe during the implementation of the pilot program, but the agency has knowingly avoided these requirements. It is clear that FMCSA intends to ram through the haphazard NAFTA trucking program, regardless of legal obligation and public safety.

We are deeply disappointed with the agency for its lack of transparency in putting together this pilot program. The public deserves to know the details about a project that could kill or injure families driving in our highways throughout the country. FMCSA should not implement any cross-border trucking demonstration until the inadequacies of the current plan are resolved. Further, the deadline for submission of comments should be extended until 60 days after all relevant information is released to the public.

Respectfully submitted,

Joan Claybrook
President

¹ 72 Fed. Reg. 31877, 31885 (2007).

² *Id.* at 31877.

³ *See eg.* 72 Fed. Reg. 28093 (2007), 72 Fed. Reg. 27624 (2007), 72 Fed. Reg. 27625 (2007), 72 Fed. Reg. 19753 (2007), 72 Fed. Reg. 18726 (2007), 72 Fed. Reg. 15753 (2007), 72 Fed. Reg. 11426 (2007), 72 Fed. Reg. 8417 (2007), 72 Fed. Reg. 5489 (2007), 72 Fed. Reg. 5098 (2007), 72 Fed. Reg. 1053 (2007), 72 Fed. Reg. 1056 (2007), 72 Fed. Reg. 180 (2007), 72 Fed. Reg. 184 (2007), 71 Fed. Reg. 61822 (2006), 71 Fed. Reg. 61823 (2006), 71 Fed. Reg. 60606 (2006), 71 Fed. Reg. 55820 (2006), 71 Fed. Reg. 55822 (2006).

⁴ 72 Fed. Reg. 23883 (2007).

⁵ 72 Fed. Reg. 31877.

⁶ Pub. L. No. 110-28, § 6901, 121 Stat. 112 (2007).

⁷ Testimony of Mark Rosenker, Chairman National Transportation Safety Board before the Senate Committee on Commerce, Science and Transportation, Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security. May 1, 2007.

⁸ 72 Fed. Reg. 31877, 31881.

⁹ Miller, Leslie. "Critics Bash Mexican Truck Decision," AP Online, February 24, 2007.

¹⁰ 72 Fed. Reg. 31877, 31882.

¹¹ *Id.* at 31883 (emphasis added).

¹² "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross Border Trucking Provisions," Federal Motor Carrier Safety Administration, Report No. MH-2005-032, Office of Inspector General, United States Department of Transportation, January 3, 2005.

¹³ Remarks of Charles Parfey, Member of the Board of Directors of the Independent Drivers Association. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.

¹⁴ 72 Fed. Reg. 31877, 31883.

¹⁵ Public Citizen has been involved in litigation against FMCSA demanding public comment on the Mexico-domiciled carrier program and to obtain lawfully requested FOIA information.

¹⁶ 72 Fed. Reg. 31877, 31884.

¹⁷ 71 Fed. Reg. 66723 (2006).

¹⁸ "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross Border Trucking Provisions," Federal Motor Carrier Safety Administration, Report No. MH-2005-032, Office of Inspector General, United States Department of Transportation, January 3, 2005.

¹⁹ *Id.*

²⁰ P.L. 107-87, December 18, 2001.

²¹ "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross Border Trucking Provisions," Federal Motor Carrier Safety Administration, Report No. MH-2005-032, Office of Inspector General, United States Department of Transportation, January 3, 2005.

²² "New Program to Allow U.S. Trucks into Mexico for the First Time Ever, Change Way Some Mexican Trucks Operate Within the United States," Press Release of Department of Transportation. February 23, 2007. Available at: <http://www.dot.gov/affairs/cbtsip/dot2107.htm>.

²³ Remarks of Secretary Mary Peters. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.

²⁴ Remarks of Sen. Patty Murray. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.

²⁵ Miller, Leslie. "Critics Bash Mexican Truck Decision," AP Online, February 24, 2007.

²⁶ Testimony of Mark Rosenker, Chairman National Transportation Safety Board before the Senate Committee on Commerce, Science and Transportation, Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security. May 1, 2007.

²⁷ Remarks of Sen. Robert Bennett. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.

²⁸ Remarks of Secretary Mary Peters. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.

²⁹ FMCSA Motor Carrier Management Information System (MCMIS) December 22, 2006 snapshot, available at: <http://ai.fmcsa.dot.gov/International/border.asp?cvar=mc&sy=2005&redirect=Compliance.asp>.

³⁰ 72 Fed. Reg. 23883, 23884 (emphasis added).

³¹ Remarks of Annette Sandberg, September 14, 2004. Available at:
<http://www.fmcsa.dot.gov/about/news/speeches/busassociation-091404.htm>.

³² Remarks of Secretary Mary Peters. Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Hearing on Crossborder Trucking, March 8, 2007.