STATEMENT OF
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INTRODUCTION

Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee, thank you for inviting me today to discuss the Department of Transportation's (DOT's) demonstration project to implement the long-delayed trucking provisions of the North American Free Trade Agreement (NAFTA). I am pleased to describe to you what the Department has done to implement Section 350 of the Fiscal Year 2002 Transportation and Related Agencies Appropriations Act (P.L. 107-87; 115 Stat. 833, 864) and the additional steps we have taken to ensure that we safeguard the safety and security of our transportation network even as we strengthen trade with a close neighbor and important partner.

Fourteen years ago, the United States pledged to allow the free flow of commerce across the North American continent. Three U.S. Presidents and the Congress have considered and ultimately supported NAFTA's trucking provisions and the Supreme Court has rejected unanimously a challenge to the Department's implementation of those provisions, allowing us to make that pledge a reality. Unfortunately, the delay in fully implementing NAFTA's trucking provisions has impeded the efficient movement of goods to the markets on both sides of the southern border to the detriment of the nation's economy. This demonstration project begins a process that will remove this impediment, creating new opportunities, new hope, and new jobs north and south of the border.

BACKGROUND

President George H. W. Bush signed NAFTA in 1992, it was enacted by Congress and signed into law by President William J. Clinton in 1993, and it became effective on January 1, 1994. Now, 13 years after we began implementing the agreement, its economic benefits are clear. U.S. merchandise exports to NAFTA partners have grown more rapidly than our exports to the rest of the world. Real Gross National Product Growth for NAFTA partners for the period 1993 to 2005 has been 48% for the United States, 49% for Canada, and 40% for Mexico. Over that 13-year period, U.S. goods exports to Mexico and Canada have increased nearly twice as fast as our exports to the rest of the world.

Americans are reaping the benefits of this success. Each day, nearly 2.4 billion dollars in trade flows among the United States, Mexico, and Canada, offering consumers greater choices and strengthening trade and investment ties with two democratic nations and longtime allies. U.S. employment has increased substantially as well, rising from 112.2 million in December 1993 to 134.8 million in February 2006. The jobs these exports support are particularly valuable to American workers, as they pay between 13 and 18 percent more than the U.S. national average. All of this helps to explain why, between 1993 and 2006, the nation's real Gross Domestic Product has nearly doubled. This record demonstrates that we must move forward to fully implement NAFTA.

One of the agreement's few remaining provisions to be implemented is the cross-border trucking provision. Originally planned to commence in December 1995 with transportation between Mexico and the four Border States (Arizona, California, New Mexico, and Texas), it was to have been fully implemented by January 1, 2000. In December 1995, Transportation Secretary Peña announced an indefinite delay in "opening" the border to long-haul Mexican commercial trucks to address legitimate concerns about the safety of Mexican trucks that would be traveling on our highways.

Twelve years later these concerns have been addressed and, now that safety and security programs are in place, the time has come for us to move forward on a long-standing promise with Mexico and Canada by taking the trucking provisions of the North American Free Trade Agreement off hold.

DEMONSTRATION PROJECT

Over the last twelve years, there has been a long, on-going conversation about the safety, security, environmental, and economic issues involved with allowing trucks from Mexico to operate in the U.S. beyond the border zones. This conversation has occurred between DOT and Mexico's Ministry of Communications and Transport; it has occurred between the Presidents of our nations; it has occurred in the House and Senate chambers; it has occurred in the media; it has occurred in front of a NAFTA dispute settlement panel, a U.S. Court of Appeals, and even the United States Supreme Court. What this conversation made clear is that there were a number of important and difficult issues that had to be addressed before we could move forward with a graduated border opening.

For that reason, the Administration is implementing a limited one-year demonstration project to authorize up to 100 Mexican trucking companies to perform long-haul operations within the U.S. These companies will be limited to transporting international freight and will not be authorized to make domestic deliveries between U.S. cities. Likewise, under this program, Mexico will grant authority to an equivalent number of U.S. companies to make deliveries between the U.S. and Mexico. This will be the first time that American trucks have been allowed to make deliveries in Mexico in over twenty-five years. The U.S. and Mexican governments have established two groups to provide oversight for the demonstration project. The first, a bi-national group, will provide continuous monitoring of the project and identify and resolve any implementation issues as they arise. The second, an evaluation group composed only of

U.S. representatives knowledgeable with the issue, will be tasked with measuring and evaluating the results of the demonstration project. We believe that this combination of monitoring and oversight will both provide the means for addressing implementation issues in a timely fashion and also an independent means for objective evaluation of the project once it is complete. In addition, we are aware you have asked the Inspector General to conduct a separate review of the demonstration project to ensure the 100 carriers participating in the program are in full compliance with all U.S. federal motor carrier safety laws, including the provisions detailed in Section 350. We welcome the on-going involvement of the Inspector General and any ideas he may have to improve the effectiveness of the program.

By granting authority to a limited number of Mexican carriers and monitoring them closely throughout the duration of the project, we will be able to monitor and evaluate the adequacy of the safety systems we have developed to address the concerns raised since 1995.

There are no exceptions to safety regulations for trucks from Mexico. Mexico's trucks and drivers must meet all U.S. safety requirements before they cross the border now, and before they will be allowed to drive beyond the border region. All drivers must have a valid commercial driver's license, proof of medical fitness, and verification of compliance with hours-of-services rules. They must be able to understand and respond to questions and directions from U.S. inspectors, undergo drug and alcohol testing, and cannot be under the influence of drugs or alcohol. All trucks must be insured by a U.S. licensed insurance company and meet U.S. safety standards.

Let me put the magnitude of this demonstration project in context. Today, over 700,000 interstate trucking companies and approximately 400,000 intrastate companies are registered to operate in the U.S. Over 8 million large trucks are registered in the United States. We expect that the 100 Mexican trucking companies in this program will operate approximately 1,000 trucks in the U.S.

It is also important to note that the demonstration project will not involve hazardous materials transportation, bus transportation of passengers, or operation of longer combination vehicles by Mexican carriers.

SAFETY

Safety is at the heart of all we do at DOT and it has been foremost in our thoughts as we prepared to change the way trucks from Mexico operate in the U.S. Development of our safety programs has been guided by, but not limited to, the 22 requirements that Congress included in the 2002 Act. I can assure you that the Federal Motor Carrier Safety Administration (FMCSA) has addressed each of these requirements and I have attached to the written testimony a table of these requirements and the actions FMCSA has taken to satisfy them.

Two weeks ago, Secretary Peters traveled to Monterrey, Mexico, to visit a Mexican trucking company. There, she witnessed FMCSA personnel conducting a pre-authorization safety audit required by Section 350 on the motor carrier. Under the law, 50 percent of these audits must take place at the carrier's place of business in Mexico. For this demonstration project, FMCSA will conduct 100 percent of pre-authorization safety audits in Mexico. These audits ensure that Mexican carriers wishing to operate in the U.S. beyond the border zones have systems in place to comply with all DOT regulations, including driver qualification, drug and alcohol testing, hours-of-service, vehicle maintenance, and insurance.

During the pre-authority safety audit, FMCSA inspectors also conduct vehicle inspections of trucks a company wishes to use in the U.S. The inspection is a comprehensive 37-step process that involves checking the vehicle from front to back and top to bottom. At the conclusion of this inspection, if no defects are discovered, the vehicle is issued a 90-day Commercial Vehicle Safety Alliance (CVSA) safety decal. All trucks operating in the test program will be required to display a current decal at all times while operating in the U.S., which means they will be inspected at least once every 90 days.

This safety audit is merely the beginning of FMCSA's oversight. All Mexican trucks operating beyond the border zones will have a unique identifier, an X at the end of the DOT number marked on the vehicle. This is so it is easily visible to FMCSA and State inspectors. When these trucks reach the border, they will be subjected to additional vehicle inspections and license checks. Under Section 350, FMCSA is required to check the validity of licenses for 50 percent of the drivers entering the country.

Since 1995, FMCSA has spent more than $500 million to improve border inspection stations and hire more than 600 new Federal and State inspectors to enforce truck safety on the border. We have deployed 125 inspectors and an additional 149 auditors and investigators along the Southern Border at all truck crossings. Our State partners in Arizona, California, New Mexico, and Texas have deployed an additional 349 inspectors. These safety professionals oversee the safety of Mexican trucks providing transportation in the existing border commercial zones and have made noteworthy progress in establishing the safety foundation for this demonstration project. These inspectors conducted more than 210,000 driver and vehicle inspections of Mexico-domiciled carriers in the commercial zone during fiscal year 2006 and performed over 240,000 automated, real-time, checks of Mexican drivers' licenses. Their efforts are paying off. Ten years ago, the out-of-service rate for Mexican trucks was 59 percent. Since the increased enforcement that resulted from hiring the additional FMCSA and State staff, the rate dropped to 21 percent last year, which is comparable to the out-of-service rate we typically observe when we select U.S. trucks for inspection.

I also want to highlight that while these inspectors have been effective and will assist the Department in satisfying its Congressional requirements, we are already looking toward more comprehensive and effective screening methods for the future. FMCSA is working with Customs and Border Protection (CBP) to have motor carrier safety integrated into

the International Trade Data System, or ITDS, which is part of the Automated Commercial Environment development effort. When this initiative becomes fully operational, every Mexican company will have its authority and insurance checked and every Mexican driver will have his or her license checked each time the driver crosses the border, whether the vehicle is operating within the commercial zone or involved in long-haul transportation. In fact, since these computer checks occur prior to a carrier's arrival at the Southern Border, if we discover a problem, we will actually send notice back to the company or broker entering the information so issues can be addressed before the truck even reaches our Southern Border points of entry. If the truck does arrive at the Border, the CBP agent will receive notice that there is an issue with the truck and direct it for further inspection by FMCSA or our State partners.

While in the U.S., the performance of these Mexican carriers will be closely monitored. We have established, through rulemaking, a list of seven safety problems related to driver licensing, operating unsafe vehicles, drug and alcohol testing and insurance – we call them the 7 deadly sins – which would lead to action by FMCSA up to and including revocation of a carrier's provisional authority if not promptly addressed.

FMCSA has worked with State and local law enforcement officials so they can assist in ensuring Mexican trucks operate safely and within the limits of their authority. In 2002, FMCSA established regulations prohibiting all carriers from operating beyond the scope of their authority. Since that time, every State has adopted and begun enforcing these provisions. The Commercial Vehicle Safety Alliance (CVSA) has incorporated this violation into its Out-of-Service criteria, meaning that a Mexican truck discovered operating beyond the scope of its authority will be stopped and not allowed to continue. We have incorporated these new regulations into the training it gives to all commercial vehicle inspectors.

FMCSA and the International Association of Chiefs of Police have developed a commercial motor vehicle awareness training program. We have trained over 200 law enforcement officers to instruct other law enforcement officials about how to identify a Mexican motor carrier, how to verify the validity of a Mexican driver's commercial license, how to determine the carrier is operating within its authority, and who to call if they need additional assistance with truck-specific issues. Through this program, we are reaching out to the more than 500,000 State and local law enforcement officers in the U.S.

In addition to the Federal safety requirements, the Mexican trucks operated in this demonstration project will be required to adhere to the same State requirements as U.S. trucks, including size and weight requirements and paying the applicable fuel taxes and registration fees. In preparation for this project, FMCSA has worked with the four Border States to develop the capability for these States to register Mexican trucks in the International Registration Plan and International Fuel Tax Agreement.

SECURITY AND ENVIRONMENT

While safety is the highest priority, the issues involved in this demonstration project are not limited to safety. For this reason, the Department has coordinated closely with other Executive Branch agencies, particularly with the Department of Homeland Security (DHS) on border security matters and with the Environmental Protection Agency (EPA) to address environmental issues. While these agencies can better speak to their programs in detail, let me share with you an overview of what is being done to address these areas.

The majority of vehicles Mexican trucking companies will use for long-haul operations have been manufactured to meet both U.S. and Mexican emission standards. In fact, most commercial motor vehicles now entering the U.S. from Mexico were manufactured in the U.S. or Canada, meaning that they were manufactured to U.S. emissions standards. As breakdowns are costly for shippers, we expect that the fleet of trucks used for long-haul cross-border transportation will be newer and cleaner. We anticipate that Mexican companies will maintain or expand their use of equipment that is manufactured to meet U.S. standards. Mexico has also upgraded its domestic vehicle emission requirements in the last three years and now has regulations similar to those currently in effect in the United States. EPA is working with the Mexican government to encourage full adoption of new U.S. truck and fuel standards.

On a yearly basis, CBP processes about 4.5 million trucks through the U.S.-Mexico Border. It is estimated that the 100 carriers in this demonstration project will account for approximately 1,000 trucks, a very small percentage of the CBP workload. Implementing this demonstration project will not change our border security or immigration security posture.

Current Processing

All commercial truck cross-border traffic must stop at a designated border crossing. As required by statute and regulation, each truck will be processed at the border, using automated systems to assist in determining whether the cargo, truck, and driver are admissible and whether any of the elements pose a security, immigration, agriculture, or smuggling risk.

If the CBP officer determines that further inspection is necessary, the driver, truck, and cargo are referred for a secondary inspection. In a secondary inspection, CBP officers have many inspection tools at their disposal, including access to commercial, criminal and law enforcement databases, forensic document equipment, agricultural experts, and large scale scanning systems.

If the CBP officer performing primary or secondary inspections determines that the driver, truck, and cargo are admissible and do not pose a risk, then the driver is allowed to proceed into the United States. The Mexican carrier is then able to deliver the cargo to a location within the commercial border zone, which can range up to 25 miles from the

border (or 75 miles from the border within Arizona). The cargo remains within the commercial zone until it can be picked up by a U.S. driver and truck.

Current CBP inspections are in addition and separate from motor carrier inspections. The current CBP inspections and the current motor carrier inspections will continue under the demonstration project.

Demonstration Project

Under the demonstration project, processing of Mexican nationals and commercial trucks will continue according to CBP guidelines. All cross-border commercial truck traffic will continue to be required to stop at a designated border crossing. Mexican drivers will be required to present an entry document, and if traveling outside the 25-mile commercial zone (or 75-mile limit within the state of Arizona), the drivers will be issued a Form I-94 pursuant to regulations and in accordance with US VISIT procedures that include biometric and security requirements.

CBP processing of drivers, cargo, and conveyances for security screening and trade enforcement will remain consistent for truck carriers participating in this demonstration project. Participants will continue to provide advanced cargo information as required under the Trade Act of 2002. Participants will remain subject to immigration entry requirements for the driver and crew and to the import requirements of other government agencies in order to gain entry into United States commerce.

DOT and DHS will continue to partner in this effort to ensure safety and security requirements are completely addressed and satisfied prior to a carrier being allowed to proceed to an interior location in the United States.

CONCLUSION

Trucks from Mexico have always been allowed to cross the U.S. border. Until 1982, they could travel anywhere in the United States. For the last 24 years they have been restricted to specific border areas in Arizona, California, New Mexico, and Texas. Every day, thousands of trucks from Mexico enter the United States. Every day, drivers from Mexico operate safely on roads in major U.S. cities like San Diego, El Paso, Laredo, and Brownsville. And every day, Federal and State inspectors ensure trucks are safe to travel on our roads.

We have developed a limited program to demonstrate the effectiveness of the systems we have deployed to satisfy Section 350 of the 2002 Appropriations Act and to ensure the safety of the U.S. traveling public. And now, we are ready to change the way trucks from Mexico operate in the United States.

Thank you for the opportunity to appear before you today. I look forward to working with this Committee and the transportation community to ensure a safe transportation system for the citizens of the United States and to strengthen our trade with Mexico.