

*Skeptical about legal authority to grant permanent access; opposes U.S. taxpayers funding equipment for Mexican trucks*

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**March 10, 2011**

**WASHINGTON, DC** – Today, Rep. Peter DeFazio (D-OR), Ranking Member of the House Subcommittee on Highways and Transit, sent a letter to Secretary of Transportation Ray LaHood requesting additional details regarding the proposed pilot program the U.S. is negotiating with Mexican officials. The pilot would allow Mexican trucks to operate on U.S. highways beyond the current border commercial zone and it would allow Mexican carriers to obtain permanent operating authority from the U.S. Department of Transportation (DOT) after 18 months in the pilot program. That permanent authority would not be rescinded were Congress or the Administration to terminate the Mexican truck pilot program. DeFazio questions the legal authority of DOT to implement a permanent program.

In addition, DeFazio strongly opposes a proposal to use scarce Highway Trust Fund dollars to pay for the Electronic On-Board Recorders (EOBR) for Mexican trucks in the program. This proposal would require American taxpayers to subsidize Mexican truck compliance with American safety standards and regulations. This is simply unacceptable.

“As I have said before, three issues must be addressed in the cross-border trucking program: safety, security and job loss,” DeFazio said. “I appreciate the Administration’s attempt to address the very serious safety and security concerns surrounding Mexican trucks, and I am glad we are beginning to address the extortionate Mexican tariffs unfairly slapped on American goods. However, taxpayers should not have to foot the bill for the Mexican trucking industry to comply with American safety standards. It is outrageous that we would spend tax dollars to pay for equipment on Mexican trucks; equipment which either the Mexican government or the Mexican carriers themselves should be required to pay. I also question the authority to grant Mexican carriers permanent authority to operate on American roads and highways before a pilot program is complete and the results evaluated.”

The full text of the letter is below.

March 10, 2011

The Honorable Ray LaHood

Secretary

U.S. Department of Transportation

1200 New Jersey Ave, SE

Washington, DC 20590

Dear Secretary LaHood:

I am writing to express my serious concern with the Administration's latest plans to allow Mexican trucking companies to operate long haul in the United States. You are well aware of my opposition to the Department of Transportation's (DOT) previous attempts to open the U.S.-Mexico border to truck traffic, because of the significant impacts on the safety of our roads and on American jobs. While I was pleased to learn that the Administration was engaging Mexico to begin to lift the arbitrary, excessive, and illegal tariffs that Mexico has

imposed on the U.S., after learning the details of the latest negotiations, I am greatly concerned that the Administration is not launching a pilot program, but rather starting the full liberalization of cross-border trucking.

I request that you provide me with a written justification of how DOT's planned program complies with the requirements for pilot programs under section 31315 of title 49, United States Code, as well as various appropriations provisions related to cross border trucking. I also ask that you provide me with the specific legal authority the Department relies on to expend Highway Trust Fund dollars to implement the pilot program and to purchase equipment to be used and retained by Mexican carriers.

A true pilot program should grant a discreet number of Mexican carriers the opportunity to operate beyond the commercial zones at the U.S.-Mexico border. The U.S. government would strictly monitor the operations of these carriers, and at the end of the pilot program, suspend any further operations while evaluating the results. Instead, it is my understanding that DOT will grant Mexican carriers the same provisional operating authority it grants any new U.S. motor carrier seeking interstate authority. After 18 months, this authority becomes permanent indefinitely, provided the carrier does not have an egregious safety record or a lapse in insurance. This permanent authority will not be revoked - even if Congress or DOT terminates the pilot program. Further, carriers who participated in the pilot program DOT launched in 2007 will get credit for the number of months they operated in the U.S. when they re-apply under this new program. This means that some carriers will receive permanent authority almost immediately.

DOT is required by law to first test granting authority to Mexican carriers under a pilot program that complies with Section 31315 of title 49, United States Code. This section mandates that any pilot program must allow for both a sufficient length of time, not to exceed three years, and adequate participation in order for DOT to evaluate the effects of a pilot program on safety.

Granting permanent authority to carriers on a rolling basis, and then granting blanket authority to all participants at the 18-month mark, would seem to exceed your authority under the law.

Further, this section requires DOT to immediately revoke the participation of any carrier or driver who fails to comply with the terms and conditions of the pilot program.

I question how the Department can fulfill this requirement if carriers have permanent authority once they pass a Compliance Review after 18 months, and are not required to meet any other specific terms and conditions.

Further, I understand that Federal Motor Carrier Safety Administration (FMCSA) inspectors will conduct rigorous oversight of Mexican carriers when they cross the border – for the first three months of the program. After such time, carriers will be subject to scrutiny and inspection at the same rate as carriers who remain in the commercial zone are currently inspected. I fail to see how expanding the areas where uninspected carriers can travel from just the border zones to travel throughout the United States would achieve an equivalent level of safety, as required by law.

I also understand that, as outlined in the President's FY 2012 Budget request, FMCSA plans to use \$4.3 million in FY 2012 of its general operating expenses to implement the program. These funds come out of the Highway Trust Fund.

FMCSA plans to use some of these funds to purchase Electronic On-Board Recorders (EOBRs) for Mexican carriers, and pay for monitoring.

The agency spent \$1.25 million on EOBRs for 27 carriers under the previous pilot program – and the Mexican trucking companies were allowed to keep the devices when the program ended.

I strongly support the requirement that carriers use EOBRs to demonstrate compliance with hours of service laws, particularly since Mexico does not hold its drivers to the same stringent hours of service standards that apply to U.S. carriers.

However, it is outrageous that U.S. truckers, through the fuel tax, will subsidize the cost of doing business for these Mexican carriers.

I look forward to your response, and to our continued joint work to ensure the safety of American roads and the preservation of American jobs.

Sincerely,

Peter A. DeFazio

Member of Congress

CC: The Honorable Anne Ferro, Administrator, Federal Motor Carrier Safety Administration

The Honorable Ronald Kirk, Ambassador, United States Trade Representative

**To access the radio actuality:**

For Internet Explorer users:

1. Go to the following website: [www.defazio.house.gov](http://www.defazio.house.gov)
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2. Select “radio actualities” from the “press” drop down menu on the top right hand side.

Right click on the file entitled “ [3.10.11 DeFazio questions so-called Mexican truck "pilot"](#) ”

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