AMERICAN MEAT INSTITUTE

May 13, 2011

U.S. Department of Transportation (DOT)
Docket Management Facility (M-30)
1200 New Jersey Avenue, SE
West Building, Ground Floor, Room 12-140
Washington, DC 20590-0001

Re: Department of Transportation's Federal Motor Carrier Safety Administration Notice, Docket No. FMCSA–2011–0097 *Pilot Program on NAFTA Long-Haul Trucking Provisions*

The American Meat Institute (AMI) submits comments in response to the Department of Transportation's Federal Motor Carrier Safety Administration *Federal Register* Notice, 76 *Fed. Reg*. 20807-19 (April 13, 2011), Docket Number FMCSA-2011-0097, to initiate a *Pilot Program on NAFTA Long-Haul Trucking Provisions*. AMI is the nation's oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products. AMI member companies account for more than 95 percent of United States output of these products. Many AMI members are participating in meat trade with Mexico and as such would be subject to the proposed rules.

AMI strongly supports implementing a new pilot program for long-haul trucking from Mexico as proposed in the above-referenced *Federal Register* notice. Although AMI's reasons for this support are detailed below, in short, the program will: (1) terminate the retaliatory tariffs on 99 U.S. products, including an important pork item, valued at $2.4 billion; (2) bring the United States into conformity with its international trade obligations and re-establish its credibility when insisting that countries adhere to commitments under agreements with the U.S.; (3) ensure the safety of U.S. roads through strict requirements on Mexican trucks and truckers; and (4) allow U.S. pork producers and producers of the other products affected by the retaliatory tariffs to regain their competitive positions and market shares in Mexico and recover the jobs lost because of the decline in exports.

<u>Exports of American Meat and Poultry are Important to the Economy.</u>

The U.S. meat and poultry processing and hide, skin, and offal production industries contribute approximately $832 billion in total to the U.S. economy, or a little less than six percent of GDP. In 2010, through production and distribution linkages, the industries accounted for 6.2 million jobs.

Red meat and poultry exports are increasingly important and contribute to the economic health and long term sustainability of the U.S. economy. Job creation data based on employment multiplier projections from the United States Department of Agriculture's Economic Research Service (ERS) and meat and poultry industry groups estimate that for every $1 billion in beef exports, 12,700 jobs are created; for every $1 billion in pork exports 13,333 jobs are created; and, for every $1 billion in poultry exports, 11,853 jobs are created.

In 2010, nearly 20 percent of the pork, 18 percent of the poultry, and 10 percent of the beef produced in the United States was exported, totaling more than 6.7 million metric tons with a value of more than $13.1 billion. Virtually all of this trade today is the direct result of U.S. efforts over the years to tear down import barriers through bilateral, regional, and multilateral trade agreements. Those efforts are wasted when the United States fails to adhere to its side of the agreements and its trading partners retaliate against U.S. exports.

Meat Exports to Mexico are Important to the Industry.

There is no disputing that free trade agreements have been a major factor in the rapid growth in U.S. pork exports over the last two decades. As a signatory to the NAFTA agreement, Mexico has emerged as a vital trading partner for the U.S. meat industry. In 2010, Mexico was the largest customer for U.S. beef and variety meats, surpassing 247,000 metric tons (23 percent of total U.S. beef exports), as well as importing more than 545,700 metric tons of pork and variety meats (representing over 28 percent of total U.S. pork exports). Mexico also was the largest destination for U.S. poultry at more than 595,000 metric tons. These figures demonstrate that Mexico is an essential trading partner for the U.S. meat and poultry industry.

Retaliatory Tariffs on U.S. Pork Exports must be Eliminated.

Pork was not included on Mexico's initial March 18, 2009, retaliation list and AMI is convinced that this omission was because of U.S. pork producers' long-standing efforts in support of the NAFTA. Other sectors, however, were not so fortunate. Mexico's initial retaliation was estimated to put 12,000 agricultural and 14,000 manufacturing jobs at risk. Potato producers and processors have indicated that the retaliatory tariffs on frozen potato products caused U.S. exports to Mexico to decline by nearly 50 percent. Those lost sales were captured by Canadian producers.

Unfortunately, the revised retaliation list announced by Mexico on August 19, 2010, added pork. The tariff rate on ham and shoulder cuts (applied to two tariff lines, 020312 and 020322) is now five percent. The tariff on cooked skin pellets is now 20 percent. Nearly 40 percent of the U.S. pork shipped to Mexico is unprocessed ham (leg of pork). Cooked skin is a relatively small percentage of total U.S. pork exports to Mexico.

Mexico's action last August was taken out of frustration with the fact that, despite more than a year of statements by the United States that it was working to find a solution to the trucking issue, nothing materialized. Ironically, modifying retaliation after a period of time to maintain pressure on a trading partner to abide by a trade agreement is a tactic first introduced by the United States in its complaint against the European Union in the beef hormone case.

The United States is the lowest-cost pork exporter to Mexico, and the U.S. pork industry has established itself as the number one supplier to the market. But the retaliatory tariffs, if continued, will erode that position for the items targeted by the tariffs. Even as the lowest-cost producer, the U.S. pork industry ultimately will be driven from the market if the products of competitor countries, principally Canada and Chile, enter Mexico duty-free.

In the seven-month period since the retaliatory tariffs were applied to pork, U.S. exports of the targeted items fell by 10 percent from the same period the year before. During the same period, Canadian exports increased from a smaller base by 75 percent in the same items. It would be one thing if these changes occurred because of normal competitive forces, but it is unacceptable that the pork industry has been disadvantaged because of U.S. government inaction.

Compliance with Trade Commitments is Vitally Important.

The *Federal Register* notice provides a fairly detailed account of the history of the trucking dispute over the past 15 years. In short, as part of the NAFTA deal, the United States and Mexico agreed to permit each other's trucks to enter the interior of the other country after a phase-in period, expanding the border zone access that had been in place for years. The United States refused to implement its part of this deal, however, and after failing for three years to gain access, Mexico sought a ruling from a NAFTA dispute settlement panel in an attempt to force U.S. compliance with the trucking agreement. In February 2001 that panel determined that the United States had indeed violated its obligations on trucking and authorized Mexico to retaliate against U.S. exports. Subsequent efforts by the Bush administration to implement the agreement convinced Mexico not to engage in retaliation for several additional years.

One of those efforts in 2007 was to put in place a "pilot program" that allowed some Mexican trucks to make deliveries beyond the 25-mile "border zone." Although only a small number of Mexican carriers were allowed into the United States through this pilot program, it generated a significant outcry within the United State. On March 11, 2009, Congress voted to cut the program's funding thereby shutting it down. Mexico retaliated immediately.

The *Federal Register* notice did not discuss the affect the United States' refusal to comply with its NAFTA obligation on trucking has had on U.S. credibility among its trading partners. Countries with which the United States is negotiating trade agreements and those that the U.S. may wish to negotiate in the future must wonder whether commitments they undertake in such agreements will be fully reciprocated by the United States if political pressure can easily result in non-compliance.

Furthermore, U.S. Trade Representative Kirk has frequently stated that "enforcement" of trade agreements is a key pillar of the Obama administration's trade agenda. Ambassador Kirk has said, and AMI agrees, that trade agreements are of little value and will not be supported by the public if they are not enforced. The United States' insistence that other nations abide by their trade agreement obligations is only credible, however, if the United States practices what it preaches.

The Proposed Pilot Program Will Ensure the Safety of U.S. Roads.

The debate over the trucking provision has mainly been about truck safety. Opponents have argued that neither Mexican trucks nor Mexican drivers are as safe as their American counterparts. The aborted 2007 pilot program, however, showed otherwise. During the 18 months the program was in place Mexican trucks crossed the border 45,000 times with no major incidents reported.

An analysis by the Department of Transportation found that Mexican carriers met all 22 congressional safety mandates.[1] In 2010, the Congressional Research Service reported that Mexican trucks and truckers, whether operating in the United States as part of the pilot program, operating only in the border zones, or operating internally under pre-NAFTA authorities, had safety records comparable to, or even better than, those of United States drivers.[2] One might suspect, therefore, that the pilot program was killed by opponents not because Mexican trucks and drivers were found to be unsafe but rather because the just the converse was true.

Even so, the new pilot program outlined in the *Federal Register* is considerably more rigorous than its predecessor with respect to pre-authorization audits of companies, documentation requirements, inspection, monitoring and testing, and language proficiency of truckers. Together, these requirements will ensure that Mexican trucks and truckers meet U.S. safety standards. The requirements have been developed by agencies that have a vested interest in road safety, not trade policy. Program opponents, on the other hand, have a vested interest in keeping Mexican trucks from competing with U.S. truckers. For them, "safety" is the argument they believe is most likely to accomplish that objective.

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[1] http://www.dot.gov/affairs/cbtsip/slidepres080311.pdf
[2] http://fpc.state.gov/documents/organization/145094.pdf

The Retaliatory Tariffs Must be Lifted.

Under the agreement reached between the two governments on March 3, 2011, Mexico will suspend its retaliatory tariffs in stages, beginning with reducing tariffs by 50 percent at the signing of an agreement and suspending the remaining 50 percent when the first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized. For U.S. pork producers and for the producers of the other 96 products on the retaliation list, these actions cannot come soon enough. If, for whatever reason, the United States fails to implement this agreement, U.S. pork producers and other producers are certain to face a continuation of retaliation, with the likelihood of new items added to the retaliation list. Exports will suffer and more jobs will be lost. The pilot program is a sound basis for resolution of this lengthy dispute and AMI strongly supports its implementation.

AMI appreciates the opportunity to submit these comments. If you have any questions regarding the comments or anything else regarding this matter please contact me at (202) 587-4229 or mdopp@meatami.com.

Respectfully Submitted,

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