



FEDERAL HIGHWAY  
ADMINISTRATION  
TEXAS DIVISION

# State of Texas Border Partnership Newsletter

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## 9th U.S. District Circuit Court Denies Groups Petition to Halt Mexican Trucks

An urgent request made by Teamsters, Public Citizen, Sierra Club and others for an emergency injunction to stop Mexican trucks from rolling across the border was denied late Friday August 31st. The rejection essentially sets the stage for a ribbon-cutting at the southern border for a cross-border pilot program. The earliest the program would begin is Thursday, Sept. 6, according to a spokeswoman for the Federal Motor Carrier Safety Administration (FMCSA).

The U.S. Court of Appeals for the Ninth District rejected the request filed last week by the Teamsters, Public Citizen, the Sierra Club and others for an emergency injunction that would have temporarily stopped the FMCSA's pilot cross-border program with Mexico. The emergency injunction request was part of a larger lawsuit the groups filed challenging various aspects of the pilot program and citing legality, safety issues and logistics.

In denying the request, the court's order simply stated that it did not satisfy the legal requirements for an emergency stay, basically stating that the court saw no reason that there should be a delay in the pilot program and it should be allowed to commence. While the petitioners see the court's denial as a disappointment, an attorney for Public Citizen, said the emergency stay sought by the groups and denied by the court is "extraordinary relief that is difficult to obtain."

She explained that part of the filing was a "long shot" and normally a request for injunction required a long litigation process. "While naturally, we are disappointed in the court's ruling, we appreciate that the court did not address the merits of our lawsuit challenging the pilot program," She said the court will address the lawfulness of the pilot program after full briefing and arguments.

The briefings and lawsuit will continue into the fall, "We are hopeful that the court will agree with us that the pilot program fails to meet the requirements set by Congress," she said. Shortly after the Friday decision denying the mo-

tion for an injunction was announced, the FMCSA issued the following response: "The court's prompt decision denying an emergency stay is welcome news for U.S. truck drivers anxious to compete south of the border and U.S. consumers eager to realize the savings of more efficient shipments with one of our largest trading partners. However, we still must wait for the Inspector General's new assessment, respond to that report and have Mexico begin giving U.S. trucking companies access before we can begin this program."

The IG's assessment is now fast-tracking its way to lawmakers, who return to Capitol Hill today from their August recess. Even though the Teamsters' request for an injunction was denied, the battle is long from over. The Owner-Operator Independent Drivers Association (OOIDA) is now planning to file a legal challenge to put a stop to the continued push by the Bush administration to open the border to Mexican motor carriers.

The Association will also continue its efforts on Capitol Hill to rein in the FMCSA pilot program. The government court filing said that on the first day of the program only two Mexican carriers operating a total of seven trucks will be granted permission to cross the border.

One is Luciano Padilla Martínez, a Tijuana-based company that said it will send five trucks into the United States. The other firm that would get immediate operating authority is Fernando Páez Treviño, a carrier in Apodaca, Nuevo Leon. U.S. Transportation Secretary Mary Peters in February announced plans for a one-year pilot program to test the safety of Mexican trucks in the United States.

The agency now appears on the verge of commencing the project, in which up to 100 pre-approved Mexican carriers would be able to send hundreds of trucks throughout the United States for the first time since 1982.

## Longer Border Delays Expected at Canadian and Mexican

Increased inspections at both Canadian and Mexican points of entry to the U.S. have also increased wait times for those wanting to cross the border. At the Blue Water Bridge, which connects Port Huron, MI, to Point Edward, Ontario, the wait times were so long that the Ontario Ministry of Transportation set up portable toilets along the road, according to *The Associated Press*.

Those who live and work near the borders say the delays are the result of new rules that require U.S. citizens to have a driver's license, passport or other photo ID. They say there isn't enough staff there to carry out the inspections and vehicle checks.

According to Associated Press reports, inspection times at the Peace Bridge between Buffalo, NY, and Fort Erie, Ontario, have gone up from 54 seconds last year to 75 seconds this year – and with hundreds of vehicles passing through each day, those times can add up. At the Detroit Windsor Tunnel, average crossing times have risen from 15 minutes to 23 minutes,

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## Panama Canal Begins Largest Expansion Since Opening 93 Years Ago

In the presence of former President Carter, who signed the 1977 treaty that gave Panama control of the waterway, Panamanian President Martin Torrijos celebrated the start of construction on two wider sets of locks being added to both sides of the canal. "We are witnesses to an exceptional and unique act," Torrijos said moments after the explosion.

The \$5.25 billion expansion is expected to double the 50-mile canal's capacity and lower the price of consumer goods on the East Coast of the United States by allowing wider vessels to squeeze through with more cargo. About two-thirds of the cargo that passed through the canal is headed to or from the United States. China is the Panama Canal's second-largest user. The waterway now moves 4 percent of the world's cargo. The new locks, approved in a referendum nearly a year ago, are expected to be ready for use between 2014 and 2015. The Panama Canal Authority, the autonomous government agency that runs the canal, is borrowing up to \$2.3 billion between 2009 and 2011 to help finance the project. It expects to pay that back by increasing ship tolls an average of 3.5 percent a year.

In addition to benefiting international trade, the new locks are expected to generate more revenue for the canal and Panama's government, which is struggling to pay back billions in debt and battle poverty that affects some 40 percent of the population. "I'm proud of the grand plans for this expansion," said former President Jimmy Carter, who originally signed the 1977 treaty with Torrijos' father, strongman Omar Torrijos, that led to the U.S. handover of the canal to Panama on December 31, 1999.

Under Panama's control, canal accidents and the time needed to transverse the canal are down, while revenues have increased. President Theodore Roosevelt arranged for Panama's independence from Colombia in 1903 to build the canal. By some accounts, more than 25,000 people died during American and French efforts to build the engineering marvel, which opened on August 15, 1914.

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## State of Texas Law Expands Truck Size & Weight Enforcement Effective

More police in Texas will be allowed to enforce truck rules starting Saturday, Sept. 1. Currently, Texas law allows police in cities with populations of 100,000 or more to enforce commercial motor vehicle safety standards. Police in cities with populations of 25,000 or more also are allowed to enforce the CMV safety standards, as long as they are located in counties with populations of at least 2 million.

Cities must be certified from the Texas Department of Public Safety to enforce the safety standards. The new law allows police in cities with populations of 50,000 or more to enforce the safety standards. It also allows police in cities with populations of 25,000 or more and located in counties with populations of at least 500,000 to enforce the standards.

In addition, it extends enforcement of truck rules to municipalities with populations of at least 34,000. The only requirement is that they are located in a county that borders two or more states. Another new CMV enforcement law that takes effect Sept. 1 applies to municipalities with populations of less than 5,000 located adjacent to a bay connected to the Gulf of Mexico and in a county adjacent to a county with a population greater than 3.3 million.

Based on the 2000 U.S. Census, the provisions in the law apply to several small municipalities located in Brazoria, Chambers, and Galveston counties. The changes to state law will allow local law enforcement in more than 40 cities to become eligible to enforce truck size & weight rules.

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## CARB Unveils New Plan to Curb Emissions from Diesel Truck Engines

The California Air Resources Board staff this past week unveiled an aggressive plan to attack the oldest and most polluting diesel truck engines that emit nitrous oxides and diesel particulate matter. CARB is scheduled to consider by mid-2008 a rule requiring retrofitting of 1993 and older truck engines running in the Golden State to be 2004-emissions compliant by 2009. Truck engines manufactured between 1994 and 1997 would be required to be 2004 compliant by December 2010; 1998-99 truck engines by 2011; 2000-02 truck engines by 2012; and 2003-06 truck engines by 2013.

A second phase of regulations would require truck engines to be 2007 emissions compliant by 2019. During a workshop Thursday, Aug. 24, to introduce the proposed regs in Sacramento, CARB's chief staff member over heavy-duty diesel in-use strategies, Erik White, said the agency's staff is seeking comments before finalizing the proposed rules. White said the proposed rules could change and be modified to include a new standard for carbon monoxide emissions.

Before the rule is finalized and formally proposed, CARB officials said they need truck drivers and others affected by the proposed regulation to tell them what financial impact it will cause them, White said. "CARB officials said they understand that most trucks on California highways are operated by owner-operators, and that the proposed emissions limits could cripple some trucking businesses. That is why staff members said they're encouraging comments now. The rule currently is a "first draft," said Tony Brasil, CARB's manager of in-use control measures. Brasil noted that the emissions rule could be altered to be more aggressive as "the devil is always in the details ... The people with the least financial means – the unfortunate reality is that those trucks are the ones that have the highest emissions."

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## Port Container Tax Bill Awaits Consideration in California

As state lawmakers prepare to head back to the California statehouse they await their final push to approve bills before the regular session ends next month, one bill of interest to truck drivers is likely to draw consideration.

Sponsored by Sen. Alan Lowenthal, D-Long Beach, the bill would allow the collection of a \$30 fee on every 20-foot equivalent unit passing through the Los Angeles, Long Beach and Oakland port complexes. Money from the nation's first-

second- and fourth-largest container ports would be used solely for improvements to road and rail infrastructure and clean-air programs.

The portion provided to alleviate port congestion would go to the California Transportation Commission to fund projects that improve the rail system that moves containers to and from the ports. The text of the bill says the commission would be prohibited "from using the funds to construct,

maintain, or improve highways."

Money earmarked for mitigation relief would be used by the California Air Resources Board to develop a list of projects to reduce pollution caused by the movement of containers.

## U.S. Customs and Border Protection Sign Bilateral Plan with Mexico

U.S. Customs and Border Protection Commissioner W. Ralph Basham along with U.S. Immigration and Customs Enforcement Assistant Secretary Julie Myers, Monday will sign a bilateral strategic plan with Mexico Customs Administrator General Juan Jose Bravo, recognizing the longstanding relationship and cooperation on customs issues between these agencies.

"CBP, ICE, and Mexico Customs will expand our existing cooperation in matters related to law enforcement, integrity, trade facilitation, border management, customs-trade partnerships, security and business resumption," Commissioner Basham said.

The bilateral plan stems from a Declaration of Principles that was signed June 8 by U.S. Homeland Security Secretary Michael Chertoff and Mexico Ministry of Finance and Public Credit Secretary Agustin Carstens. CBP and ICE are agencies of the Department of Homeland Security.

"This agreement officially recognizes the critical nature of strategic cooperation and collaboration between the United States and Mexico," said Department of Homeland Security Assistant Secretary Julie Myers.

"The working groups established under this plan will help ensure that critical information is shared in a more timely manner and that issues of enforcement, security and trade are managed more efficiently, to the ultimate benefit and safety of both nations."

The declaration of principles established joint goals for customs cooperation and called for the development of a bilateral strategic plan. Through the plan, CBP, ICE and Mexico Customs will implement the goals and develop working groups to address joint initiatives and long-term projects.

"This bilateral plan will strengthen cross-border law enforcement cooperation by expanding existing institutional mechanisms and establishing

new collaborative programs designed to fight contraband trafficking, smuggling of prohibited goods, fraud, and related crimes," said CBP Commissioner Basham.

The plan will enhance security by providing the strategic framework that will help prevent and deter terrorism and align security mechanisms, procedures and programs for North America-bound conveyances, shipments and travelers.

***"This agreement officially recognizes the critical nature of strategic cooperation and collaboration between the United States and Mexico," said Department of Homeland Security Assistant Secretary Julie Myers.***

## Ohio Conference on Freight (September 17-18, 2007)

The Toledo-Lucas County Port Authority in conjunction with TMACOG are hosting the 2007 Ohio Conference on Freight on September 17th and 18th in Toledo, Ohio.

Workshop topics will include:

- Plenary Session on Site Selection and the Freight Planning Process
- Public-Private Partnerships
- Planning for Freight Movement

- Freight Distribution and Security
- What's New in Freight

The keynote speaker will be Mr. Collister ("Terry") Johnson, Jr. Administrator of the Saint Lawrence Seaway Development Corporation and the U.S. Department of Transportation.

The complete conference agenda and online registration materials may be found at: [www.tmacog.org](http://www.tmacog.org)



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## Inland Ports Across North America (September 6-7, 2007)

The Free Trade Alliance of San Antonio and the North America's SuperCorridor Coalition are holding its third annual Inland Ports Across North America conference at the Menger Hotel in San Antonio on September 6-7, 2007.

The conference cost is \$250 per person (Alliance or NASCO member) or \$295 (for non-members). The focus of this year's conference is on the air cargo industry and speakers

will include Mr. Bruce Miller, President and CEO, Port San Antonio, Mr. Mike Berry, President of Alliance Texas; Mr. David Eaton, Director of Corporate Affairs, Kansas City Southern de Mexico, Mr. Dan McAuliffe, President of the Allen Development of Texas, Mr. Mario Cuen, Director of Marketing, Port of Manzanillo, among others. For additional information regarding the registration or

program agenda for this conference please see the website at: [http://](http://www.freetradealliance.org/)

[www.freetradealliance.org/](http://www.freetradealliance.org/)

The agenda for the conference may be found at:

[http://](http://www.freetradealliance.org/admin/images/docs/agenda.pdf)  
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**FEDERAL HIGHWAY  
ADMINISTRATION  
TEXAS DIVISION**

300 E. 8th Street, Room 826  
Austin, TX 78701

Phone: 512-536-5900

Fax: 512-536-5990

E-mail: [kirk.fauver@fhwa.dot.gov](mailto:kirk.fauver@fhwa.dot.gov)

We're on the web at:  
[www.fhwa.dot.gov](http://www.fhwa.dot.gov)

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## **ATA and Private Trucking Companies Petition for 11 Hours of Service Rule**

U.S. trucking companies want the government to keep regulations allowing truckers to drive 11 hours in a row, rather than the previous limit of 10. The American Trucking Association (ATA) filed a petition Friday, August 31st with the federal government asking officials to issue a new version of two-year-old regulations on truckers' hours to replace regulations struck down by a court in late July 2007.

The ATA trucking group argued that since the court's late July ruling was focused on procedural issues rather than safety concerns, the U.S. DOT should keep similar regulations in place. The trade group says eliminating the two-year-old rule effective Sept. 14 would impose an expensive burden on the industry, while safety advocates say the industry is putting the public at risk by allowing truckers to drive too many hours.

The U.S. Court of Appeals for the D.C. Circuit's ruling was applauded by safety advocates. But the trucking association said in a statement that it "will be impossible for the trucking industry to adapt to immediate changes...without significant and costly impacts upon carriers' operations." The court also threw out a rule that would have effectively increased weekly time limits on drivers' hours by at least 25 percent. A spokeswoman for the Transportation Department's Federal Motor Carrier Safety Administration said the agency is still developing a response to the court ruling but would do so in time for the industry to adapt.

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## **Next FHWA "Talking Freight" Web Seminar on Freight Transportation Safety (September 19, 2007)**

Registration is open for the September 2007 Talking Freight Seminar. To register for this seminar, please visit [http://www.ops.fhwa.dot.gov/freight/fpd/talking\\_freight.htm](http://www.ops.fhwa.dot.gov/freight/fpd/talking_freight.htm). You will need to register for each seminar individually by clicking on the "Enroll" link to the right of the seminar information. Dates and topics for the upcoming seminar: September 19, Freight Transportation and Safety Other seminars will be available for registration in the coming months.

The Talking Freight seminars are sponsored by the Federal Highway Administration (FHWA) and are held via web conference. This means that you view the PowerPoint presentations over the Internet while listening to the presenters over the telephone. There is no cost involved and you do not have to leave your desk to participate. However, registration and attendance is limited to 100 people.

The seminars are held on the third Wednesday of each month, 1:00 pm - 2:30 pm EDT/ 10:00 am - 11:30 am Pacific. The seminars use Adobe Connect and you must have the [Adobe Flash Player](#) installed on your computer. To test your machine or troubleshoot issues, go to: [http://admin.breezecentral.com/common/help/en/support/meeting\\_test.htm](http://admin.breezecentral.com/common/help/en/support/meeting_test.htm). This may require the help of your IT support person if Flash needs to be installed. Recordings of past seminars, as well as transcripts and links to download the PowerPoint presentations, are available at <http://www.fhwa.dot.gov/freightplanning/talking.htm>. To provide Feedback, Suggestions or Comments for this page contact Jennifer Symoun, SAIC, 703-676-6849 or [jennifer.e.symoun@saic.com](mailto:jennifer.e.symoun@saic.com).

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