

(4) Commercial motor vehicle

The term “commercial motor vehicle” means a commercial motor vehicle, as such term is defined in paragraph (1) of section 31132 of title 49, that meets the requirements of subparagraph (A) of such paragraph.

(5) Cross-border long-haul trucking services

The term “cross-border long-haul trucking services” means—

(A) the transportation by commercial motor vehicle of cargo originating in Mexico to a point in the United States outside of a border commercial zone; or

(B) the transportation by commercial motor vehicle of cargo originating in the United States from a point in the United States outside of a border commercial zone to a point in a border commercial zone or a point in Mexico.

(6) Driver

The term “driver” means a person that drives a commercial motor vehicle in cross-border long-haul trucking services.

(7) Grant of authority

The term “grant of authority” means registration granted pursuant to section 13902 of title 49, or a successor provision, to persons of Mexico to conduct cross-border long-haul trucking services in the United States.

(8) Interested party

The term “interested party” means—

(A) persons of the United States engaged in the provision of cross-border long-haul trucking services;

(B) a trade or business association, a majority of whose members are part of the relevant United States long-haul trucking services industry;

(C) a certified or recognized union, or representative group of suppliers, operators, or drivers who are part of the United States long-haul trucking services industry;

(D) the Government of Mexico; or

(E) persons of Mexico.

(9) Material harm

The term “material harm” means a significant loss in the share of the United States market or relevant sub-market for cross-border long-haul trucking services held by persons of the United States.

(10) Operator or supplier

The term “operator” or “supplier” means an entity that has been granted registration under section 13902 of title 49 to provide cross-border long-haul trucking services.

(11) Persons of Mexico

The term “persons of Mexico” includes—

(A) entities domiciled in Mexico organized, or otherwise constituted under Mexican law, including subsidiaries of United States companies domiciled in Mexico, or entities owned or controlled by a Mexican national, which conduct cross-border long-haul trucking services, or employ drivers who are non-United States nationals; and

(B) drivers who are Mexican nationals.

(12) Persons of the United States

The term “persons of the United States” includes entities domiciled in the United States, organized or otherwise constituted under United States law, and not owned or controlled by persons of Mexico, which provide cross-border long-haul trucking services and long-haul commercial motor vehicle drivers who are United States nationals.

(13) Threat of material harm

The term “threat of material harm” means material harm that is likely to occur.

(14) United States long-haul trucking services industry

The term “United States long-haul trucking services industry” means—

(A) United States suppliers, operators, or drivers as a whole providing cross-border long-haul trucking services; or

(B) United States suppliers, operators, or drivers providing cross-border long-haul trucking services in a specific sub-market of the whole United States market.

(Pub. L. 116–113, title III, § 321, Jan. 29, 2020, 134 Stat. 54.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle C (§§ 321–327) of title III of Pub. L. 116–113, Jan. 29, 2020, 134 Stat. 54, which is classified principally to this subchapter. For complete classification of subtitle C to the Code, see Tables.

§ 4572. Investigations and determinations by Commission**(a) Investigation**

Upon the filing of a petition by an interested party described in subparagraph (A), (B), or (C) of section 4571(8) of this title which is representative of a United States long-haul trucking services industry, or at the request of the President or the Trade Representative, or upon the resolution of the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, the International Trade Commission (in this part referred to as the “Commission”) shall promptly initiate an investigation to determine—

(1) whether a request by a person of Mexico to receive a grant of authority that is pending as of the date of the filing of the petition threatens to cause material harm to a United States long-haul trucking services industry;

(2) whether a person of Mexico who has received a grant of authority on or after the date of entry into force of the USMCA and retains such grant of authority is causing or threatens to cause material harm to a United States long-haul trucking services industry; or

(3) whether, with respect to a person of Mexico who has received a grant of authority before the date of entry into force of the USMCA and retains such grant of authority, there has been a change in circumstances such that such person of Mexico is causing or threatens to

cause material harm to a United States long-haul trucking services industry.

(b) Transmission of petition, request, or resolution

The Commission shall transmit a copy of any petition, request, or resolution filed under subsection (a) to the Trade Representative and the Secretary of Transportation.

(c) Publication and hearings

The Commission shall—

(1) promptly publish notice of the commencement of any investigation under subsection (a) in the Federal Register; and

(2) within a reasonable time period thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to presentations of other parties, and otherwise to be heard.

(d) Factors applied in making determinations

In making a determination under subsection (a) of whether a request by a person of Mexico to receive a grant of authority, or a person of Mexico who has received a grant of authority and retains such grant of authority, as the case may be, threatens to cause material harm to a United States long-haul trucking services industry, the Commission shall—

(1) consider, among other things, and as relevant—

(A) the volume and tonnage of merchandise transported; and

(B) the employment, wages, hours of service, and working conditions; and

(2) with respect to a change in circumstances described in subsection (a)(3), take into account those operations by persons of Mexico under grants of authority in effect as of the date of entry into force of the USMCA are not causing material harm.

(e) Assistance to Commission

(1) In general

At the request of the Commission, the Secretary of Homeland Security shall consult with the Commission and shall collect and maintain such additional data and other information on commercial motor vehicles entering or exiting the United States at a port of entry or exit at the United States border with Mexico as the Commission may request for the purpose of conducting investigations under subsection (a) and shall make such information available to the Commission in a timely manner.

(2) Requests for information

(A) In general

At the request of the Commission, the Secretary of Homeland Security, the Secretary of Transportation, the Secretary of Commerce, the Secretary of Labor, and the head of any other Federal agency shall make available to the Commission any information in their possession, including proprietary information, as the Commission may require in order to assist the Commission in making determinations under subsection (a).

(B) Confidential business information

The Commission shall treat any proprietary information obtained under subpara-

graph (A) as confidential business information in accordance with regulations adopted by the Commission to carry out this part.

(f) Limited disclosure of confidential business information under protective order

The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under subsection (a).

(g) Deadline for determination

(1) In general

Not later than 120 days after the date on which an investigation is initiated under subsection (a) with respect to a petition, request, or resolution, the Commission shall make a determination with respect to the petition, request, or resolution.

(2) Exception

If, before the 100th day after an investigation is initiated under subsection (a), the Commission determines that the investigation is extraordinarily complicated, the Commission shall make its determination with respect to the investigation not later than 150 days after the date referred to in paragraph (1).

(h) Applicable provisions

For purposes of this part, the provisions of paragraphs (1), (2), and (3) of section 1330(d) of this title shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 2252 of this title.

(Pub. L. 116-113, title III, §322, Jan. 29, 2020, 134 Stat. 55.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in subsecs. (a), (e)(2)(B), and (h), was in the original “this subtitle”, meaning subtitle C (§§ 321-327) of title III of Pub. L. 116-113, Jan. 29, 2020, 134 Stat. 54, which is classified principally to this subchapter. For complete classification of subtitle C to the Code, see Tables.

§ 4573. Commission recommendations and report

(a) In general

If the Commission makes an affirmative determination under section 4572 of this title, the Commission shall recommend the action that is necessary to address the material harm or threat of material harm found.

(b) Limitation

Only those members of the Commission who agreed to the affirmative determination under section 4572 of this title are eligible to vote on the recommendation required to be made under subsection (a).

(c) Report

Not later than the date that is 60 days after the date on which the determination is made under section 4572 of this title, the Commission shall submit to the President a report that includes—

(1) the determination and an explanation of the basis for the determination;