CTPAT Alert – Cabotage Rules Violations and CTPAT

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As a voluntary supply chain security program based on trust, CTPAT is open to members of the trade community who can demonstrate excellence in supply chain security practices and who have had no significant security related events and operate within the laws and regulations of the United States. With this in mind, CTPAT wants to provide the transportation industry, specifically those that employ truck drivers with B-1 visas, with a better understanding of the cabotage rules to help ensure compliance with federal immigration laws and regulations.

This CTPAT Alert is being generated as a result of some companies employing Mexican truck drivers with B-1 visas to haul cargo that originates in the U.S. to a final destination in the U.S. – an illegal practice known as cabotage. Cabotage rules prevent foreign nationals in the U.S. on B-1 business-visitor visas from competing with U.S. truckers on loads moving point to point in the U.S. The objective of the regulations is to ensure that domestic U.S. traffic is performed by U.S. trucking companies, with U.S. equipment and U.S. drivers.

CTPAT Members and FAST commercial drivers who use the FAST lanes must also comply with this requirement as it is part of the guidance that drivers were given when their FAST commercial driver ID card was issued to them.

The Department of Homeland Security (DHS) created the *Guidelines for Compliance of Commercial Motor Vehicles (CMV) and CMV Drivers Engaged in Cross-Border Traffic*. This document provides general information to the trade and law enforcement communities about U.S. laws applicable to CMVs and their operators engaged in cross-border traffic – including cabotage and where to report non-compliance.



Cabotage General Principles Cabotage refers to the point-to-point transportation of property or passengers within one country.

- Goods transported by commercial vessel, vehicle or aircraft across the United States border must be entering or leaving the United States and remain in the stream of international commerce.
- Drivers may be admitted to deliver or pick up cargo traveling in the stream of international commerce, i.e., the cargo is entering or leaving the United States.

Immigration Requirements – Foreign national truck drivers may qualify for admission as B-1 visitors for business to pick up or deliver cargo traveling in the stream of international commerce.

1. Truck drivers must meet the general entry requirements as a visitor for business (B-1 classification). Thus, the truck driver must:

   a) Have a residence in a foreign country which he or she has no intention of abandoning;
   b) Intend to depart the U.S. at the end of the authorized period of temporary admission;

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c) Have adequate financial means to carry out the purpose of the visit to, and departure from, the U.S.; and,
d) Establish that he or she is not inadmissible to the U.S., including for health related reasons, criminal convictions, or previous immigration violations.

2. Truck drivers may only transport cargo traveling in the stream of international commerce within the meaning of U.S. immigration law. The intent of the transportation operator provision of the free trade agreement between the U.S., Canada and Mexico is to allow the free movement of goods across the border, an activity that is international in scope, but not to facilitate access to the domestic labor market.

Cargo coming to rest - Goods that "come to rest" assume a domestic character (even if they originated from a foreign source), **if the continual delivery is stopped for any reason that is NOT considered a "necessary incident" of international commerce**. Some examples of "coming to rest" include:

- Parking goods at a drop lot, holding lot or warehouse to be picked up later and delivered (overnight of the weekend), **unless the goods are parked awaiting clearance by a government agency (CBP, USDA, FDA).**

- Switching tractors in the United States, **unless the tractors belong to the same company and the replacement tractor makes entry from a foreign country for replacement purposes (i.e. medical emergency, tractor breaking down).**

Movements not permitted for the driver:

- Drivers may not pick up a shipment at one U.S. location and deliver that shipment to another U.S. location.

- Drivers may not reposition an empty trailer between two points in the United States when the driver did not either enter with or depart with that trailer.

- Drivers may not "top up" an international shipment with U.S. domestic shipments.

- Drivers may not solicit shipments for domestic deliveries while in the United States

The CBP regulation that prohibits a foreign motor carrier from engaging in U.S. (domestic) point-to-point transportation is found at 19 CFR § 123.14(c). Additional guidance from the Federal Motor Carrier Safety Administration (FMCSA) may be found here: https://www.fmcsa.dot.gov/international-programs/prohibition-engaging-us-point-point-transportation-0

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CTPAT Members in violation of cabotage requirements will be suspended or removed from the program. FAST commercial drivers may also have their FAST ID cards revoked.

Suspected violation of cabotage rules should be reported to U.S. Immigration and Customs Enforcement (ICE) or CBP.

- ICE – HSI Tip Form or call 1-866-347-2423
- CBP – Report Trade Allegations (e-Allegations) or call1-800-BE-ALERT (232-5378).

CTPAT Program

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