

(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;

(2) if the determination is affirmative, recommendations for action and an explanation of the basis for the recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination.

(d) Public notice

Upon submitting a report to the President under subsection (c), the Commission shall—

(1) promptly make public the report (with the exception of information which the Commission determines to be confidential business information); and

(2) publish a summary of the report in the Federal Register.

(Pub. L. 116–113, title III, §323, Jan. 29, 2020, 134 Stat. 57.)

§ 4574. Action by President with respect to affirmative determination

(a) In general

Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission’s determination under section 4572 of this title is affirmative or which contains a determination that the President may treat as affirmative in accordance with section 1330(d)(1) of this title—

(1) the President shall, subject to subsection (b), issue an order to the Secretary of Transportation specifying the relief to be provided, consistent with subsection (c), and directing the relief to be carried out; and

(2) the Secretary of Transportation shall carry out such relief.

(b) Exception

The President is not required to provide relief under this section if the President determines that provision of such relief—

(1) is not in the national economic interest of the United States; or

(2) would cause serious harm to the national security of the United States.

(c) Nature of relief

(1) In general

The relief under this subsection is as follows:

(A)(i) With respect to a determination relating to an investigation under section 4572(a)(1) of this title, the denial or imposition of limitations on a request for a new grant of authority by the persons of Mexico that are the subject of the investigation.

(ii) With respect to a determination relating to an investigation under section 4572(a)(1) of this title, the revocation of, or restrictions on, grants of authority issued to the persons of Mexico that are the subject of the investigation since the date of the petition, request, or resolution.

(B) With respect to a determination relating to an investigation under section 4572(a)(2) or (3) of this title, the revocation or imposition of limitations on an existing grant of authority by the persons of Mexico that are the subject of the investigation.

(C) With respect to a determination relating to an investigation under section