

FREQUENTLY ASKED QUESTIONS

Q. Can a Mexican driver pick up a container shipment at a United States seaport for delivery in the United States?

A. No, once the container arrives in the United States from a foreign location, any further transportation of the container to a point in the United States is considered domestic transportation.

Q. Can a Mexico-domiciled motor carrier transport cargo loaded in the United States for delivery to a point in Canada?

A. Yes, this is considered transportation of international cargo.

Q. A Mexican driver is taking a shipment from Mexico for delivery to a point in the United States. The dispatcher has been notified of a shipment destined to Mexico that is located in another State. May the driver take an empty trailer (deadhead) from the delivery point to the other State to pick up the shipment and deliver it to Mexico?

A. A driver may deadhead a trailer from one location to another within the United States PROVIDED the deadhead trailer is either the one the driver came in with or the one he/she is departing with. The driver may not haul an empty trailer from one location in the United States to drop it off at another location the United States.

Q. Under what circumstances may a driver enter with an empty tractor?

A. A driver may enter the United States with an empty tractor to pick up a trailer for delivery to Canada or Mexico.

Q. Does the driver have to depart with the same trailer with which he or she entered the United States?

A. No, the driver can drop a trailer and pick up another trailer for return to Mexico.

Q. May a driver drop a trailer and bobtail to another location to pick up a trailer for return to Mexico?

A. Yes, however, the driver must deliver the picked up trailer to Mexico. The driver may not reposition trailers in the United States.

Q. May a foreign driver taking a shipment from the United States to Mexico also take merchandise destined to another point in the United States since it is on the way?

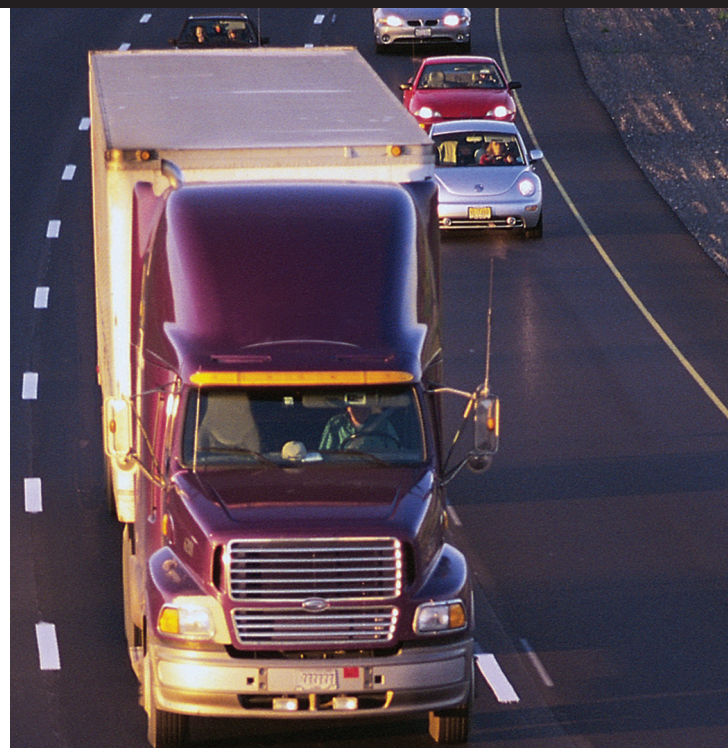
A. No. That is considered point-to-point hauling within the United States and is not permitted. The driver may only take goods loaded in the United States to Canada or Mexico.

Q. May a driver perform associated functions such as loading and unloading cargo?

A. The driver may perform a function that is a necessary incident to international trade. Loading and unloading that is merely incidental to the primary purpose of transporting goods into or out of the United States is permitted.

Q. May a United States carrier employ foreign drivers?

A. A United States carrier may employ a non-immigrant foreign driver if the driver is engaged only in the international delivery of goods and cargo to or from the United States. The foreign driver must have an established foreign residence that he or she does not intend to abandon. The foreign driver may not engage in any domestic carriage of goods without employment authorization to work in the United States.



CABOTAGE: MEXICO-DOMICILED MOTOR CARRIERS



Cabotage is the point-to-point transportation of domestic cargo (passengers and freight) in the United States.



What regulations govern point-to-point transportation of cargo in the United States?

49 CFR 365.501(b) prohibits Mexico-domiciled motor carriers from providing point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

49 CFR 392.9a (a) prohibits Mexico-domiciled motor carriers from operating beyond the scope of their operating authority. Operating authority issued to Mexico-domiciled motor carriers is limited to the transportation of international cargo.

19 CFR 123.14 prohibits point-to-point transportation of domestic freight with some exceptions. These regulations are enforced by the United States Department of Homeland Security.

8 CFR 214.2(b)(4)(i)(E)(1) prohibits foreign drivers from performing point-to-point domestic transportation in the United States. The regulations are enforced by the United States Department of Homeland Security.

What is international cargo?

International transportation means cargo transported by Mexico-domiciled motor carriers in CMVs from a foreign country to the United States, with no loading in the United States, or from the United States to a foreign country, with no unloading in the United States.

What is domestic cargo?

Domestic cargo is cargo loaded in the United States and delivered to a location within the United States.

How does an enforcement officer discover a cabotage violation?

Enforcement officers should review all driver documents to check for cabotage violations. They should look for domestic point-to-point deliveries on the driver's log book or record of duty status; check the bills of lading or other delivery documents; and check any other available records. The driver should also be questioned concerning all transportation services provided while in the United States.



What should an enforcement officer do when a cabotage violation is discovered?

The enforcement officer should:

1. Conduct a driver/vehicle inspection and complete the driver/vehicle inspection report;
2. Document on the inspection report and cite the driver for a violation of 49 CFR 392.9a(a) (operating beyond the scope of the operating authority);
3. Place the vehicle out-of-service as provided in the North American Standard Out-of-Service Criteria;

4. Obtain documentation of the violation (log book, shipping documents, driver statements, etc.); and
5. Provide the documentation to the FMCSA Division Administrator, through the appropriate chain of command, in the State where the inspection occurred. To find the Division Administrator of a State, go to www.fmcsa.dot.gov, click on Contact Us, then click Field Offices on the left.

Can the enforcement officer cite the driver for a violation of 49 CFR 365.501(b)?

Because many States may not have adopted this section of the regulations, FMCSA encourages enforcement officers to cite 49 CFR 392.9a(a) for consistency purposes.

Who can I contact if I have questions concerning cabotage?

You should contact the FMCSA Division Administrator in your State. A list of all FMCSA Division Administrators and their contact information is available on the web at : www.fmcsa.dot.gov.



U.S. Department of Transportation
Federal Motor Carrier Safety Administration