



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

NOV 19 2012

1200 New Jersey Avenue, SE
Washington, DC 20590

Phone: (202) 366-4553
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SERVICE DATE: November 16, 2012

Julian Gomez, President
MediMexico S de RL de CV
Valle Imperial #10523
Parque Industrial Valle del Sur
Tijuana, BC 28180
MEXICO

In reply, refer to:

USDOT Number 626455
MX Number 326227

Mailing Address:
9543 Heinrich Hertz Drive
Building B, Suite 7
San Diego, CA 92154

**ORDER REJECTING APPLICATION FOR
AUTHORITY TO OPERATE IN THE U.S.-MEXICO CROSS-BORDER
LONG-HAUL PILOT PROGRAM**

BASIS FOR ORDER

This Order rejecting the application for motor carrier operating authority in the Cross-Border Long-Haul Pilot Program is issued by the U.S. Department of Transportation (USDOT), Federal Motor Carrier Safety Administration (FMCSA). This Order is based upon FMCSA's determination that MediMexico S de RL de CV has not made a *prima facie* showing that its application is materially complete and that it is fit, willing, and able to comply with applicable Federal requirements.

The standards by which FMCSA grants applications for operating authority are established by statute and regulations. In accordance with 49 U.S.C. § 13902(a)(1), FMCSA will grant a request for authority to operate in the Pilot Program if FMCSA finds that the applicant is fit, willing, and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 399); 3) the commercial motor vehicle (CMV) safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set forth in 49 U.S.C. § 31144; and minimum financial responsibility requirements established under 49 U.S.C. §§ 13906 and 31138.

By this Order FMCSA finds that:

1. MediMexico S de RL de CV is a Mexico-domiciled motor carrier with OP-2 registration that permits it to operate CMVs in the United States in the commercial zones along the U.S.-Mexico border. MediMexico S de RL de CV is prohibited from operating any CMV(s) in the United States outside the boundaries of a commercial zone, and is prohibited from leasing any of its CMVs to any motor carrier for the transportation of property in the United States outside the boundaries of such commercial zones.
2. On February 27, 2012, and again on April 12, 2012, MediMexico S de RL de CV operated CMVs in interstate and foreign commerce transporting property from Mexico to destinations in the United States outside the boundaries of a commercial zone along the U.S.-Mexico border, and from points in the United States outside the boundaries of a commercial zone to Mexico without the proper operating authority to do so.
3. MediMexico S de RL de CV concealed this transportation of property in the United States by falsely representing itself to the public as Ampelio Moreno Lopez doing business as Medimexico, a U.S.-domiciled motor carrier with USDOT number 2200706.

**PROHIBITION ON TRANSPORTATION WITHOUT AUTHORITY OR
BEYOND THE SCOPE OF AUTHORITY GRANTED**

Under 49 U.S.C. § 13901, motor carriers providing transportation and operating over the public highways in interstate or foreign commerce must be registered with FMCSA. 49 C.F.R. § 392.9a(a) prohibits the operation of a motor vehicle providing transportation in interstate and foreign commerce without the required operating authority or beyond the scope of any operating authority that has been granted. Section 219 of the Motor Carrier Safety Improvement Act of 1999 (“MCSIA”),¹ at 49 U.S.C. § 14901 note, prohibits a Mexico-domiciled motor carrier from leasing any CMV(s) to any motor carrier for the transportation of property outside of the boundaries of a commercial zone along the United States-Mexico border.

Pursuant to 49 U.S.C. § 14901 note,² a foreign motor carrier or foreign motor private carrier operating without authority, before the implementation of the land transportation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone may be subject to a civil penalty and may be disqualified from

¹ P.L. 106-159, December 9, 1999, 113 Stat. 1748. Section 219(d) codified at 14901 note, (d) LEASING.—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

² Ibid.

operating a CMV anywhere within the United States. The civil penalty for an intentional violation by a carrier shall not be more than \$10,000 for each occurrence, and may include a disqualification from operating a CMV anywhere within the United States for a period of not more than 6 months. The civil penalty for a pattern of intentional violations shall not be more than \$25,000 for each occurrence, and the carrier shall be disqualified from operating a CMV anywhere within the United States and the disqualification may be permanent. Each transportation of property outside the boundaries of a commercial zone along the U.S.-Mexico border constitutes a separate occurrence and a separate violation.

ORDER

It is therefore ORDERED that MediMexico S de RL de CV's application for operating authority to transport property in the United States beyond the commercial zones along the U.S.-Mexico border in the Pilot Program is rejected.

RIGHT TO APPEAL

MediMexico S de RL de CV has the right to appeal this rejection of its application for authority under the Pilot Program to conduct long-haul transportation of property in the United States beyond the municipalities and commercial zones along the U.S.-Mexico border. In accordance with 49 C.F.R. § 365.111(a) a written appeal of this ORDER of rejection must be filed with FMCSA no later than 10 calendar days of the date of this ORDER. Any written appeal must be filed with FMCSA at the following address:

Mr. William A. Quade
Associate Administrator for Enforcement
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

The request may be faxed to (202) 366-7908.

Pursuant to 49 C.F.R. § 365.111(b), if an appeal is successful and the filing is found to be proper, the application shall be deemed to have been properly filed as of the decision date of the appeal.

Absent a timely appeal of this dismissal notice under 49 CFR § 365.111, your application will be dismissed within 20 days of the date of this notice. If you have any questions, please contact the North American Borders Division at (202) 366-4553.

SUBMISSION OF NEW APPLICATION

A motor carrier whose application for authority to operate in the Pilot Program has been rejected by FMCSA may reapply to participate in the pilot program. If MediMexico S de RL de CV elects to submit a new application for participation in the Pilot Program, it

must (1) submit evidence to make an initial showing that it has corrected the deficiencies that resulted in FMCSA rejecting its application, and (2) submit documentation (records, shipping papers, driver logs, etc.) that those corrections have resulted in compliance with the requirement for which it was cited for at least a minimum period of 12 months, to be able to demonstrate that it is now fit, willing, and able to comply with applicable Federal requirements.

To participate in the Pilot Program after such time, MediMexico S de RL de CV must submit a new Form OP-1(MX) "Application to Register Mexican Carriers for Motor Carrier Authority to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border", and a Form MCS-150, the "Motor Carrier Identification Report." MediMexico S de RL de CV must also satisfactorily complete a pre-authorization safety audit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dr. G. Kelly Leone".

Dr. G. Kelly Leone
Associate Administrator for Research and
Information Technology/Chief
Information Officer

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of November 2012, the undersigned served, as specified, the designated number of copies of the foregoing document to each of the parties listed below:

Julian Gomez, President MediMexico S de RL de CV Valle Imperial #10523 Parque Industrial Valle del Sur Tijuana, BC, MEXICO 28180	One Copy United Parcel Service Tracking #
Zulema C. Sangrador, Process Agent 9543 Heinrich Hertz Drive Building B, Suite 7 San Diego, CA 92154	One Copy US Postal Service Mail
Terry D. Wolf, Division Administrator Federal Motor Carrier Safety Administration California Division 1325 J Street, Suite 1540 Sacramento, CA 95814	One Copy Internal Mail
William R. Paden, Field Administrator U.S. Department of Transportation Federal Motor Carrier Safety Administration Western Service Center 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215	One Copy Internal Mail

