

EXECUTIVE SUMMARY

Economic harmonization has become a pervasive theme, with the globalization movement focusing on the creation of free trade zones through agreements such as the North American Free Trade Agreement, which was instituted as a means of achieving economic growth by removing trade barriers within a particular region. As a further result of all the focus that the globalization movement has put on the issue of trade harmonization, regulators and industry representatives have begun examining the disparities in trade regulations that can exist even among the individual states of a particular country. This inquiry rests on the realization that the best trading partners of a state or region are those that are closest to that state or region.

In an effort to study the actual degree of disparity among the trade laws of a particular region, the University of South Dakota Law School conducted a comprehensive survey of commercial trucking regulations of the five states within the Northern Great Plains region – Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. This study found disparities within every category of regulation surveyed. In addition, significant disparities were found in the areas of weight, long combination vehicles (LCVs), and permitting practices on “non-designated roads.” The degree of these disparities was somewhat surprising, given the commonality among the five states and the degree of trade conducted between those states. Therefore, given the conclusions of previous studies examining the economic effects of trade law disparities among states and regions, the USD Law School’s research findings indicate that a harmonization of trade regulations within the region would have a significant and positive effect on economic growth.

The present study focused on state regulations of commercial trucking for several reasons. First, various state and private research institutes had already been studying the

economic growth effects of removing confusing and contradictory trucking regulations existing between the different states, but what was unknown was the precise degree of such disparities. Second, since much of the region is without water transportation and has only limited rail competition and service, the trucking industry provided the main avenue of trade within the region. Truck transportation serves as the primary mode for transporting goods and commodities. Third, trucking laws are especially amenable to harmonization. Because such laws focus on very objective matters — *e.g.*, the weight, height and length of a truck — harmonization among different states is more possible than with laws concerning more subjective matters. Fourth, the geography and economic base of the Northern Great Plains states are somewhat similar. In other words, the physical condition of the roads in North Dakota, a state of fairly flat prairies, are similar to those in Iowa, another state of flat prairies. Also, since all the states of the Northern Great Plains region are based heavily on an agricultural economy, the type of goods being transported by trucks tends to be somewhat similar. And fifth, the trucking sector was chosen because of the assumption that regulatory disparities would in fact exist. This assumption is based on the fact that commercial trucking is highly regulated, is an integral part of each state's economy, is represented by well-entrenched industry groups, and is overseen by a myriad of government agencies. Moreover since significant disparities in regulations should be apparent within the industry and to state regulators, and since there is a strong industry incentive to try to cure those disparities, it can be assumed that such disparities are not simply the result of ignorance or indifference.

The present study did not address the matter of federal regulations, since those regulations already provide for a fairly uniform treatment of the interstate system and the primary federal-aid highway system. On the state level, however, commercial trucking is governed by complex regulatory environment, which includes state department of transportation,

rural municipal councils, major urban transportation agencies, the U.S. Department of Transportation, national parks, and other government agencies and services.

In conducting the study, the Law School first did a survey of businesses, regulatory agencies, law enforcement personnel, and industry associations across the five-state region. This survey attempted to identify the major areas of disparities, as perceived by the various groups. After conducting this survey, which included hundreds of participants, the Law School identified five areas of trucking regulations which appeared to contain significant disparities. These areas included: truck width, length, height, weight and the permitting process. The study also examined trucking safety laws, finding even greater disparities in those laws. Finally, the area of post-9/11 trucking security was examined, but it was generally found that the states have not yet legislated in this area.

For the convenience of readers of this report, the findings on state law disparities are laid out in the tables, making comparisons of the difficult laws easier. Although the study focused primarily on identifying the existence of such disparities, its findings can also be used to shed light on the larger question of why trade harmonization among individual states has been so difficult to achieve.