

## **USITC testimony**

Thank you for the opportunity to testify at this hearing. My name is Ben Beachy and I direct Sierra Club's Living Economy program.

Founded in 1892, the Sierra Club is the nation's oldest and largest grassroots environmental organization. We have 3.5 million members and supporters across the country. For over 25 years, the Sierra Club has worked to promote fair and responsible trade that protects the environment and benefits our communities.

Unfortunately, that is not what we see in the USMCA proposal. Instead, this deal would encourage further outsourcing of pollution and jobs, threaten protections for clean air and water, and undermine our transition to a clean energy economy. The deal not only fails to mention climate change – it would prolong NAFTA's contribution to the climate crisis. Despite progress on a few fronts, the deal overall fails to protect the health of communities that NAFTA has exposed to toxic pollution.

In some respects, the deal would offer even less environmental protection than past trade deals. In other respects, the deal poses even greater environmental threats than the original NAFTA. Taken as a whole, the deal falls far short of the minimum essential changes that leading environmental groups have outlined as necessary to curb NAFTA's damage to our air, water, climate, and communities.

We have three overarching concerns with the deal that are germane to this USITC investigation. First, the deal's weak environmental standards would encourage further outsourcing of pollution and jobs, undercutting both U.S. competitiveness and U.S. environmental protections. Second, the deal's investment and regulatory provisions threaten consumers' clear desire for policies that protect clean air and water, and a stable climate. Third, the deal's energy provisions would help lock in fossil fuel dependency, undermining consumers' desire for a swift transition to a clean energy economy. For the sake of time, I'll focus in these remarks on the first problem, but I'm happy to address the second and third via questions.

The USMCA has very weak environmental standards and replicates a failed enforcement system. As written, this deal would continue NAFTA's legacy of encouraging corporations to shift production abroad to evade U.S. environmental standards. This track record of environmental arbitrage under NAFTA has resulted in the outsourcing of jobs, undermining of hard-fought environmental protections, and a dumping of toxic pollution across borders.

I'll give an example. For years, U.S. factories recycled used car batteries, which contain lead – a human neurotoxin. In 2009, after advocacy from environmental groups, the U.S. Environmental Protection Agency increased U.S. air quality standards to protect communities from toxic exposure to lead.

Instead of complying with the new, hard-fought protections and reducing their pollution, corporations started exporting used car batteries – and the associated pollution – to Mexico, where lead standards are one-tenth as strong and poorly enforced. Immediately after enactment of the new U.S. regulation, lead battery exports to Mexico spiked. Over the next six years, they quadrupled.

NAFTA ensured the corporations could export their polluting batteries to Mexico free of charge. The deal eliminated the 15% tariff on exports of used lead batteries without doing the corollary -- without requiring Mexico to increase its standards to the U.S. level.

For the U.S., this effort to evade domestic lead standards spelled a loss of jobs as U.S. battery-recycling factories shut their doors. Today no more than eight such companies remain in the U.S.

For Mexico, it meant an influx of imported lead pollution. In 2010, more than six metric tons of lead were reportedly released into the air at just one of the plants in northern Mexico that processed the flood of imported lead batteries. By comparison, that is 33 times the amount of lead that a battery-processing plant in South Carolina – owned by the same company – was expected to emit.

In the Mexican communities that now process used lead batteries from the U.S., reports of learning disabilities, kidney damage, and other symptoms of lead poisoning have become common. One recent academic study finds that the boom in lead battery imports is causing infants in such communities to be underweight, with high lead levels in their blood. The authors conclude, “unbalanced stringency in environmental standards may spur flows of pollution intensive activities to countries with lax environmental standards.”

How does the USMCA address this track record of outsourced lead pollution under NAFTA? It doesn't. There's zero mention of lead pollution. Instead, the environment chapter includes a litany of weak, non-binding words. For example, the text “recognizes that air pollution is a serious threat to public health,” but then fails to include a single binding rule to reduce the air pollution that NAFTA has exacerbated.

And dumping of lead pollution certainly is not the only type of environmental arbitrage we've seen under NAFTA. In September the New York Times reported on a new study that found that the U.S. is by far the largest outsourcer of climate pollution. Corporations have been evading our clean energy policies by doing the same thing they did with lead: taking advantage of trade deals like NAFTA to shift their climate pollution to countries with weaker standards. That includes Mexico. The report shows that after over two decades of NAFTA, we are importing from Mexico goods that used to be made here, but that are now made in Mexico with significant climate pollution.

This climate pollution loophole produces the same result we saw with lead: U.S. jobs are lost, Mexico imports our pollution, and our hard-fought climate protections are undercut. Closing this loophole requires that our trade deals include strong and binding climate standards. This has been a clear and consistent priority for the environmental community.

Instead, the USMCA text takes the same approach to climate change as it does to lead pollution: Deny that there's a problem. There's not even a mere mention of climate change in the text, much less a binding climate standard. This deal leaves the climate pollution loophole gaping wide open, allowing for continued outsourcing.

In addition to such denialism, the environment chapter of the USMCA even rolls back environmental standards included in past trade deals. For example, the deal takes a significant step backwards from the environmental protections included in the last four U.S. trade deals by failing to reinforce a standard set of seven Multilateral Environmental Agreements that protect everything from wetlands to sea turtles. The deal includes standard enforcement language for only one of the seven environmental agreements, while using weak language for two of the agreements and failing to even mention four of these essential environmental agreements.

The deal even removes the only real environmental standard in the original NAFTA, which said that countries should heed their environmental commitments under five multilateral environmental agreements even if they conflict with NAFTA's rules. That provision was in the core text of the original NAFTA. The USMCA eliminates it. Under NAFTA 2.0, countries apparently should disobey their environmental commitments if they conflict with the rules of the deal.

Even if the deal included included strong environmental standards, instead of weak words and complete omissions, the question would be: How will such standards be enforced? And here again, the deal fails. The USMCA essentially replicates the same failed environmental enforcement mechanism from the past four U.S. trade agreements. Not once has the U.S. used this mechanism in past trade deals to bring a case against a U.S. trade partner for environmental abuses, despite widely documented violations.

Like our labor partners, we have long been calling for a new enforcement system that is both binding and independent, allowing for swift and certain enforcement. Instead, USMCA gives us a copy-and-paste of an enforcement system with a success rate of zero. Even if the deal's substantive environmental standards were strengthened, this failed enforcement system would allow corporations to continue dodging our hard-fought environmental standards by outsourcing pollution and jobs.

In sum, this deal would lock North America's communities into years or decades of more toxic dumping, climate pollution, and job outsourcing. We deserve far better. I'm happy to address any questions you have.