

October 10, 2018

The Honorable Elaine Chao
Secretary, U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

The Honorable Raymond Martinez
Administrator, Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E., Suite 600
Washington, D.C. 20590

Dear Secretary Chao and Administrator Martinez,

The live animal hauling community thanks you for the chance to share our views on issues impacting the trucking industry as a whole. It is our hope that we can provide needed nuance with respect to how changes to the hauling infrastructure would impact and even possibly benefit the livestock, fish, and insect (“collectively livestock”) industries.

The members of our various groups raise, produce, and market livestock, fish, and insects across this country and, despite a variety of diverse needs, are all supportive of the Federal Motor Carrier Safety Administration’s (FMCSA) interest in soliciting public comments via this Advance Notice of Proposed Rulemaking (ANPRM). Although the Agency seeks commentary from the trucking industry on four separate topics, our groups’ primary concerns relate to the creation of a split sleeper berth program that is helpful to all segments of the industry.

Producers, marketers, and shippers of live animals are greatly interested in improving roadway safety and mitigating driver fatigue. We support a split sleeper berth program that incentivizes drivers to rest when they are tired rather than “pushing through” fatigue due to the constraints of the modern Hours of Service (HOS) framework. Therefore, our comments are focused on (1) needed flexibilities within the implementation of a split sleeper berth program as well as (2) the need for the regulatory framework that accommodates short rests that do not count toward a driver’s end-of-day rest period, but rather are incentivized by pausing the on-duty clock to allow drivers to mitigate fatigue while driving.

The Current Hours of Service Framework Is Incompatible with Livestock Hauling

Livestock haulers comprise a small subset of all CMV drivers. Livestock haulers boast a long record of safely transporting live animals across the country in a statistically safe manner, due to prudent route planning, specialized equipment, safe driving practices, and driver training addressing fatigue management.

Livestock auction markets, farmers, and ranchers are particularly impacted by transportation laws and regulations. Livestock are trucked to market for sale and then hauled again to the country’s highest quality grazing lands and feedyards in the central and southern plains. Livestock do not travel frequently in their lifetimes, but when they do, they can travel significant distances. For example, according to a survey conducted as part of the Beef Quality Assurance

program, the mean distance traveled by feeder calves to Texas and Nebraska feedyards was approximately 467.89 miles. This is a significant average given the immense quantity of “local” cattle raised within Texas, Nebraska, and their neighboring states, which need not travel significant distances to arrive at a feedyard.

The key to safely hauling live animals, especially in times of great heat and humidity, is to stop as infrequently as possible and to keep the trailer moving to provide ventilation. The trailer environment has been identified as having the greatest effect on animal welfare during transport. (Mitchell and Kettlewell, 2008). In North America, transport trailers are ventilated by perforations in the aluminum walls of the trailer as well as openings in the roof. Consequently, the potential to have poor welfare outcomes is significant if the trailer is not moving, especially under extreme weather conditions. The association between decreased animal welfare and increased transport duration is well established and includes greater in-transit weight loss, lameness, incidence of nonambulatory cattle, and death, as well as increased morbidity in the feedyard upon arrival.

The majority of livestock hauls can be concluded within the timeframe outlined by HOS regulations without significant stops which limit airflow. However, unfortunately, for livestock located in or heading to states outside the center of the country, this is not the case. When a driver “runs out of time” while hauling live animals, they are given the grim prospects of unloading the livestock or leaving them on the trailer for a 10-hour stretch.

Unlike haulers of non-living products, a livestock hauler cannot merely find a safe place to park for their 10-hour rest and leave the cargo on the trailer. Leaving animals on a trailer and exposed to suffer the elements, lack of ventilation, and potential injury is unacceptable.

Simply unloading the animals for 10 consecutive hours of rest is also not a good option. First, there is often nowhere to unload them. A hauler of live animals cannot simply unload their charges on the side of the road or at a local hotel. There are few public pen systems available along major American highways, and the owners of feedyards and livestock markets are extremely hesitant to house livestock in transport due to liability, staffing, and biosecurity concerns.

With respect to biosecurity, facility and livestock owners, as well as state and federal animal health officials, spend significant time creating and following procedures to minimize risk of animal diseases spreading. This includes laws requiring certain livestock crossing state lines travel with interstate certificates of veterinary inspection that detail where the load came from and where it is going. The trouble with unloading livestock at some waypoint along the trip is that it is almost impossible for a driver to know with certainty where they will need to stop in 11 hours. These movement documents and the disease traceability programs associated with them are in place to track and prevent contagious disease outbreaks in this country. Every time animals in-transit are unnecessarily unloaded and penned next to other animals in-transit, the risk of disease spread increases.

Furthermore, these locations are rarely equipped to handle and house species other than cattle, providing a challenge to haulers of horses, sheep, goats, and pigs. For those hauling bees and

fish, the situation is even more challenging as these animals cannot be unloaded at all while in transit. Additional challenges exist if livestock are to be exported over the road to Canada or Mexico, as stringent trailer sealing and biosecurity measures are required for these exports. This process would be complicated by a rest period necessitating that the doors to the trailer be opened before they reach their destination across the border.

Even if a location is willing to take animals in, unloading and re-loading those animals has a negative impact on their wellbeing. The acts of loading and unloading have been reported to be more stressful (elevated heart rate and stress-related hormones such as cortisol) than the effect of transport itself. (Camp et al., 1981). Animals that are unloaded, “rested,” and then re-loaded will not have rested at all. *See Recommendations for Cattle Transport Duration in the U.S. - Executive Summary*. Capable animal handlers, such as livestock transporters, know that loading and unloading is extremely stressful, therefore, it is recommended that handling during these events be conducted slowly, gently, and quietly. (Grandin, 2014). Unloading and re-loading livestock in transit takes significant time. González et al. (2012) reported loading and unloading times for commercially transported cattle to be on average 20 and 30 minutes with maximums of 5 and 3 hours, respectively

A Split Sleeper Berth Program Must Be Designed to Allow for Flexibility

Allowing haulers of livestock to break up their rest period via a split sleeper berth program is a commonsense industry-supported solution to fatigue and trip planning challenges.¹ The needs of livestock haulers are dictated not only by the rest needed by the driver, but also the needs of the live animals they haul. A split sleeper program will not work for this population of haulers if it is too rigid in practice and if the rest periods are too long. Weather, type and age of livestock, and other environmental factors all play a role in determining when and how haulers move their livestock, which is why flexibility is so important.

Although a 10-hour stop with live animals onboard is almost never appropriate, allowing livestock haulers to use their professional judgment to determine when weather conditions and traffic mitigation strategies are right to stop for a break of a few hours will allow drivers to use their rest periods more productively and safely. Requiring drivers to simply split their 10-hour break in half – via a 5 and 5 or 4 and 6-hour arrangement – is not helpful to this segment of the industry. However, if drivers could stop for multiple periods of 2 or 3 hours, they would be able to evaluate humidity and temperature and determine if a stop is tolerable for the animals they are hauling, which will allow them to rest to avoid traffic or other roadway hazards.

Shorter Breaks that do Not Count Toward a Driver’s Rest Time Would Mitigate Fatigue

In conjunction with a split sleeper berth program, our organizations encourage FMCSA to entertain incentivizing shorter “nap breaks” for drivers. Although naps do not make up for inadequate or poor-quality nighttime sleep, a short nap of 20-30 minutes can help to improve

¹ Federal Motor Carrier Safety Administration (FMCSA), Investigation of the Effects of Split Sleep Schedules on Commercial Vehicle Driver Safety and Health. Report Number FMCSA-RRR-12-003. December 2012.; “MTA and ATA Request Sleeper Berth Pilot Project,” Accessed 8/5/2018 (<http://ripleytransportation.com/mta-and-ata-request-sleeper-berth-pilot-project>).

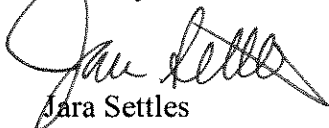
mood, alertness and performance.² The current regulatory structure encourages drivers to push through tired moments or spells of fatigue because, if they stop to rest, even for a short and refreshing nap, their on-duty clocks are still running.

Significant studies have shown that short naps (between 10 and 30 minutes) dramatically improve a driver's mental clarity and restfulness.³ We recognize that counting these short rests toward the driver's end-of-day rest total might be more complicated to track and these short rests are of a different type than the restorative rest contemplated by cumulative hours of sleep. Thus, we advocate that the agency incentivize drivers to take these valuable short breaks at their professional discretion when temperature, humidity, environmental surroundings, and class of livestock are appropriate for the situation. Drivers would be incentivized to take these rests if they were allowed to go off-duty during the time they are taking a short rest of less than the 2-hour minimum we advocate for use in the context of the split sleeper program.

Conclusion

We appreciate our ongoing partnership with FMCSA in our continued efforts to safeguard the well-being of the nation's livestock during interstate transport. In providing certain regulatory relief to date, the FMCSA has appropriately acknowledged some of the unique circumstances livestock haulers confront because of the operational demands of transporting live animals safely and we hope that the agency will continue to evaluate changes to the HOS framework with livestock haulers in mind.

Thank you,



Jara Settles

General Counsel – Livestock Marketing Association

Agribeef

Alabama Cattlemen's Association

Alabama Farmers Federation

American Cattle Transporters Advisory Group

American Farm Bureau Federation

American Honey Producers Association

American Sheep Industry Association

Arizona Farm Bureau Federation

California Cattlemen's Association

² Napping, National Sleep Foundation, Accessed 10/4/18 (<https://www.sleepfoundation.org/sleep-topics/napping>).

³ "Naps can restore alertness, enhance performance, and reduce mistakes and accidents. A study at NASA on sleepy military pilots and astronauts found that a 40-minute nap improved performance by 34% and alertness 100%. Naps can increase alertness in the period directly following the nap and may extend alertness a few hours later in the day." See Napping, National Sleep Foundation, Accessed 10/4/18 (<https://www.sleepfoundation.org/sleep-topics/napping>).

California Farm Bureau
Colorado Cattlemen's Association
Colorado Farm Bureau
Colorado Livestock Association
Cooper Horse Transportation
Florida Cattlemen's Association
Florida Farm Bureau Federation
Georgia Cattlemen's Association
Idaho Farm Bureau Federation
Illinois Farm Bureau
Indiana Beef Cattle Association
Iowa Cattlemen's Association
Kansas Farm Bureau
Kansas Livestock Association
Kentucky Cattlemen's Association
Kentucky Farm Bureau
Massachusetts Farm Bureau Federation
Michigan Cattlemen's Association
Minnesota Farm Bureau
Minnesota State Cattlemen's Association
Missouri Cattlemen's Association
Montana Farm Bureau Federation
Montana Stockgrowers Association
National Aquaculture Association
National Cattlemen's Beef Association
Nebraska Cattlemen
Nebraska Farm Bureau
New Mexico Cattle Growers' Association
New Mexico Wool Growers, Inc.
New York Farm Bureau
North American Meat Institute
North Carolina Cattlemen's Association
North Dakota Farm Bureau
North Dakota Stockmen's Association
Ohio Cattlemen's Association
Ohio Farm Bureau
Oklahoma Farm Bureau
Oregon Cattlemen's Association
Oregon Farm Bureau
Out West Livestock, LLC
Pennsylvania Farm Bureau
South Carolina Cattlemen's Association
South Dakota Cattlemen's Association

Tennessee Cattleman's Association
Tennessee Farm Bureau
Texas and Southwestern Cattle Raisers
Texas Cattle Feeders Association
Texas Farm Bureau
United States Cattlemen's Association
Utah Cattlemen's Association
Virginia Cattlemen's Association
Virginia Farm Bureau
Washington Cattle Feeders Association
Washington Cattlemen's Association
Wyoming Stock Growers Association