

Agricultural Commodity Transportation – Industry and Agency Perspectives

- **Jara Settles (Livestock Marketing Association)** – *Overview of legal/regulatory requirements for haulers*
 - The Hours of Service (HOS) rules require that commercial motor vehicle (CMV) drivers may only be “on duty” for 14 hours, 11 of which can be spent driving. After the driver has “run out of time” s/he must stop and rest for 10 hours.
 - Commercial motor vehicles are those vehicles with a gross weight rating over 10,000lbs that cross state lines for a commercial purpose. Thus, semis are not the only vehicles to which the mandate applies; a half-ton pickup and small bumper trailer is very likely over the weight limit to be considered a CMV.
 - Rest can also be taken in a split of 2 and 8 hours under current law
 - Agricultural haulers benefit from a 150-air mile exempt zone from the source of an agricultural commodity. Haulers who operate within 172-road miles from a farm, ranch, or livestock auction market are exempt from HOS and ELD rules. This exemption was expanded to livestock haulers in 2017. Time spent in the 150-air mile radius does not count against drive or on duty time even if the driver then exits the radius.
 - Covered farm vehicles (CFVs) with a gross weight rating of under 26,000lbs are exempt from HOS and ELD requirements across the country. CFV’s with a gross weight rating over 26,000lbs are exempt within 150-air miles of their farm of origin and within the state they are tagged. Generally speaking, they must have farm tags from the state in which the farm operates. The CFV operator must not be hauling “for hire” while driving under this exemption and the operator must be either the farmer/rancher or their employees.
- **Joe DeLorenzo (Federal Motor Carrier Safety Administration)** – *ELD Implementation and recently published Notice of Proposed Rulemaking*
 - ELDs:
 - The Moving Ahead for Progress in the 21st Century Act (MAP-21, P.L. 112-141) included a provision mandating the use of electronic logging devices (ELDs) for those Commercial Motor Vehicle (CMV) drivers who are required to keep a record of duty status under the HOS regulations.
 - FMCSA is charged with the roll-out of the ELD mandate.
 - The ELD mandate went into effect for commercial motor vehicle drivers on December 18, 2017. Because the Federal Motor Carrier Safety Administration (FMCSA) granted two concurrent 90-day waivers after a cross-industry coalition requested a long-term exemption, individuals who transported agricultural commodities had until June 18, 2018, to comply. Additional delays have occurred due to appropriations bills, which will be discussed later in the presentation.
 - Advance Notice of Proposed Rulemaking – Agricultural commodity definition

- Notice of Proposed Rulemaking HOS modifications– comment period closed on October 7, 2019:
 - The Agency proposes to increase safety and flexibility for the 30 minute break rule by tying the break requirement to eight hours of driving time without an interruption for at least 30 minutes, and allowing the break to be satisfied by a driver using on duty, not driving status, rather than off duty.
 - The Agency proposes to modify the sleeper-berth exception to allow drivers to split their required 10 hours off duty into two periods: one period of at least seven consecutive hours in the sleeper berth and the other period of not less than two consecutive hours, either off duty or in the sleeper berth. Neither period would count against the driver’s 14 hour driving window.
 - The Agency proposes to allow one off-duty break of at least 30 minutes, but not more than three hours, that would pause a truck driver’s 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift.
 - The Agency proposes to modify the adverse driving conditions exception by extending by two hours the maximum window during which driving is permitted.
 - The Agency proposes a change to the short-haul exception available to certain commercial drivers by lengthening the drivers’ maximum on duty period from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 air miles to 150 air miles.
- **Andrew Walmsley (American Farm Bureau Federation)** - *Discussion of compliance challenges for live animal haulers and the broader agricultural commodity industry*
 - Compliance with the current Hours of Service rules is very challenging not only for livestock haulers but also for general agricultural haulers:
 - The structure of the cattle sector requires calves born throughout country be transported to feedyards and packing plants in other parts of the country. Often, cattle are purchased at a livestock auction market in one region of the United States, and then shipped to another region, resulting in hauls longer than HOS rules allow.
 - 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.
 - One quarter of the nation’s cow herd is located in the Southeast. Most farmers in this area have small herds, typically fewer than 20 head, and depend upon the services rendered by livestock markets

and livestock dealers to gather their small calf crops into marketable groups. These calves must be shipped to the central and southern plains.

- The majority of livestock hauls can be concluded within the timeframe outlined by HOS regulations without significant stops which limit airflow. However when a driver is on a longer haul, unlike the haulers of non-living products, the livestock hauler cannot merely find a safe place to park for their 10-hour rest and leave the cargo on the trailer.
- Livestock/agricultural haulers are safe drivers:
 - While the Agency has safety oversight of more than 500,000 motor carrier companies and 5 million active commercial driver's license holders operating across the nation, it estimates that only 3 percent of trucks on the road are agricultural haulers.
 - The Large Truck Crash Causation Study, conducted by the FMCSA and the National Highway Traffic Safety Institute, showed that of 1,123 accidents involving trucks hauling cargo, a mere five involved livestock transporters. Similarly, Trucks Involved in Fatal Accidents Factbook 2008, a report conducted by the Transportation Research Institute, shows that of 4,352 trucks involved in fatal accidents, livestock haulers accounted for just 0.6 percent.
- **Allison Rivera (National Cattlemen's Beef Association)** – Perspectives from the cattle industry as well as a discussion of ongoing policy/regulatory efforts to increase flexibility
 - ELD delay background
 - Past delays (2017-2019) and how accomplished
 - Current delay (2019 appropriations bill and projected to be in the fiscal year 2020 bill)
 - SEC. 131. None of the funds appropriated or otherwise made available to the Department of Transportation by this Act or any other Act may be obligated or expended to implement, administer, or enforce the requirements of section 31137 of title 49, United States Code, or any regulation issued by the Secretary pursuant to such section, with respect to the use of electronic logging devices by operators of commercial motor vehicles, as defined in section 31132(1) of such title, transporting livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) or insects. (FY2020 request)
 - Petition to FMCSA for HOS flexibility
 - Livestock Marketing Association, National Cattlemen's Beef Association, American Farm Bureau Federation, American Beekeeping Federation, American Honey Producers Association, and the National Aquaculture Association filed an exemption with the Federal Motor Carrier Safety Administration (FMCSA).

- The exemption would apply to livestock, fish, and bee haulers and would modify the hours of service (HOS) for those haulers for a period of five years.
 - The petition requested that livestock haulers be granted approval to drive up to 15 hours with a 16-hour on-duty period, following a 10-hour consecutive rest period. Any livestock hauler wishing to operate under the extended drive time would be required to complete pre-trip planning and increased fatigue-management training. The exemption would only be available to drivers with a satisfactory or no safety rating.
 - FMCSA requires petitions for exemption to explain how the petitioner would ensure a level of safety equivalent to or greater than the level of safety that would be obtained without the exemption. The petition identified Australia's performance-based fatigue management/HOS system, which is tailored to livestock haulers as a model for this exemption.
 - The strong safety record of livestock haulers demonstrates their ability to ensure the well-being of both live animals and other drivers on the road. A 2014 analysis by the FMCSA found that livestock haulers were underrepresented in truck-involved fatal crashes. Data cited in the petition also shows that, between 2013 and 2015, livestock haulers accounted for 6.6 percent of all commercial drivers but less than one percent of crashes involving large trucks.
- Backside 150 and other legislative efforts (status may change by presentation date) etc.
 - Livestock haulers would benefit from an amendment to the existing agricultural exemption to apply the 150-air mile radius of exempt time to both the source and destination of the haul. Haulers would also benefit from additional drive time and the ability to break their rest up into more logical pieces.
 - Transporting Livestock Across America Safely Act (TLASS) - would increase the current agricultural exemption on the front end of a haul from 150 to 300-air miles. Drive time would also be increased between 15 to 18 hours and the legislation would allow a driver to take a self-imposed rest without that time being counted against on-duty time. Once animals are safely off the trailer, the legislation would require at least a 10-hour rest. If a hauler has used 18 hours of drive time, the mandated rest period would be 13 hours.
 - Modernizing Agricultural Transportation Act (MATA) - would establish a working group at the Department of Transportation (DOT) to study the HOS and ELD regulations. The legislation would require the Secretary of Transportation to establish the working group within 120 days of enactment of the bill. The group would be charged with identifying obstacles to the "safe, humane and market-efficient transport of livestock,

insects and other perishable agricultural commodities” and developing guidelines and recommending regulatory or legislative action to improve the transportation of those commodities. One year after it is established, the group must submit its findings to the DOT secretary, who must propose regulatory changes to the HOS and ELD regulations within 120 days.