

DOT grants waiver to livestock haulers

By **CAROL RYAN DUMAS**
Capital Press

The U.S. Department of Transportation is giving livestock haulers more time to get up to speed on new regulations requiring commercial truck drivers to use electronic logging devices and correlating restrictions on drive time.

The agency has granted livestock haulers a 90-day waiver from the requirements that go into effect on Dec. 18.

Cattle, pork, fish and bee organizations in September petitioned the agency for a one-year exemption from compliance to the new regulations.

They also asked for increased flexibility in the hours of service rules that restrict how long truckers can stay behind the wheel, citing the potential negative effects on animal well-being.

Cattle and beef organizations were quick to register their approval of the waiver, but say they will continue to push their petition.

“This is definitely a little Thanksgiving present,” Allison Cooke, executive director of government affairs for the National Cattlemen’s Beef Association, said in a podcast on Tuesday.

“We’re excited because this gives us time to continue our conversations with DOT about our long-term needs, but it also gives DOT a chance to take their time on our livestock hauler petition,” she said.

The comment period on the petition closes at the end of November, and the waiver will give the agency more time to go through the comments and make a positive decision for livestock haulers, she said.

Drivers required to use electronic logging devices would be limited to the hours of service rules, which restrict drivers to no more than



Courtesy of Tim O’Byrne/Working Ranch magazine

The U.S. Department of Transportation has granted a 90-day waiver of new regulations requiring livestock haulers to use new electronic logs and tightening rest requirements. Haulers petitioned DOT to delay the regulations.

11 hours of active driving. Once a driver hits those maximum hours, he must stop and rest for 10 hours.

Industry groups contend those restriction are incompatible with transporting livestock and have questioned whether the ELD devices can accommodate agricultural exemptions.

“The ELDs regulation poses some serious challenges for livestock haulers and the animals in their care,” Ken Maschhoff, president of the National Pork Producers Council, stated in a press release.

“Drivers transporting livestock have a moral obligation to care for the animals they’re hauling,” he said.

The waiver will give DOT time to consider NPPC’s request that livestock haulers

be exempted from the ELD mandate, he said.

Both organizations have maintained there is a lot of confusion about the agricultural exemption on hours of service and a lack of outreach from DOT to the agricultural community on the new regulations.

They contend the livestock hauling industry is not prepared and needs more training on ELD technology and education on the rules. They also question whether local law enforcement is aware of the agricultural exemption.

Lack of clarity on the rule is one of the reasons for the waiver, and DOT told industry it wants time to take comments on the exemption and how it will work best for livestock haulers,

Cooke said.

“We want to make sure that not only our local law enforcement know about this exemption but that our haulers are using it correctly, and we need formal guidance from DOT,” she said.

NCBA will continue to push the petition, and DOT could grant the requested exemption for livestock haulers for up to five years.

It will also continue its conversation with DOT on the long-term needs on hours of service, she said.

It is also going to continue to push appropriations language for a one-year delay and is working on letters to that effect from House and Senate leadership to members of the congressional appropriations committees, she said.

CPA: How to recognize when someone is ripping you off

By **JOHN O’CONNELL**
Capital Press

FORT HALL, Idaho — Certified public accountant Ryan Mathews has developed a profile of the typical Eastern Idaho employee who commits fraud against his or her company.

Mathews, with Cooper Norman in Pocatello, explained the region’s typical perpetrator of fraud is likely married, active in a church, educated beyond high school, has no arrest record, is in his or her 40s, conforms to social norms, has been employed by the company from one to 20 years and acts alone 70 percent of the time.

Mathews offered steps for businesses to avoid fraud while speaking during a recent meeting of the Idaho Grower-Shippers Association. He said most business owners tell him his criminal profile could aptly describe the person they have overseeing their own books.

“The bottom line is given the right pressures, opportunities and rationalizations, many people are capable of committing crime,” Mathews said, adding business owners in Eastern Idaho tend to be trusting and often don’t have adequate preventive controls in place.

Mathews believes fraud is on the rise regionally. His company investigates about 10 to 20 fraud cases per year in Eastern Idaho, mostly in the Idaho Falls area. He said common reasons for workers committing fraud include gambling or drug habits, debt or poor credit, a significant financial loss and pressure to succeed.

Mathews offered statistics from a recent Association of Certified Fraud Examiners report. According to the report, the typical organization loses 5 percent of its revenue to fraud annually, and poor internal controls are the great-



Ryan Mathews

est contributor to losses. The report found 55.7 percent of U.S. fraud cases involved males, and the greatest losses came from work-

ers with the most access and knowledge of internal procedures. The median loss was \$573,000 by owners and executives, \$180,000 by managers and \$60,000 by general employees.

Mathews said records reviewed by tax preparers seldom include the level of detail needed to detect fraud. Fraud is discovered based on a tip roughly 40 percent of the time, so Mathews advises companies to establish internal hot lines for accepting anonymous tips. He said companies should also cross-train workers to do multiple jobs and strive for a separation of duties to prevent a single employee from having too much control over managing money. He advises business owners to make certain workers use vacation, and that they don’t continue working remotely on their laptops while they’re off.

“A lot of times we’ll meet a person who says, ‘Nobody can do my accounting job like I can,’” Mathews said. “We call that red flag behavior if they’re not willing to take vacation or let anyone else look at the books.”

Mathews said working odd hours can also be a sign of fraud.

IGSA President Shawn Boyle advised his members to look into insurance policies to protect against fraud.

Mathews said managers should also make certain to communicate regularly with employees about acceptable practices within the workplace, and to have clear policies to prevent employees from rationalizing illegal behavior.

Environmentalists claim EPA foiling manure air reports

Court asked to clarify ruling

By **DON JENKINS**
Capital Press

Environmental groups are asking a federal court to affirm that farmers and ranchers must warn local fire and police departments that their livestock are emitting hazardous substances.

The groups accuse the Environmental Protection Agency of thwarting a previous ruling by the same U.S. Circuit Court of Appeals for the District of Columbia. The EPA denies the charge and maintains that a law meant to alert communities to dangerous chemicals still doesn’t apply to storing and spreading manure.

Washington State Dairy Federation policy director Jay Gordon said Monday that he hopes the court rejects the request by environmental groups and spares livestock owners from having to alert fire halls and police stations that their animals are releasing gas.

“It seems to be silliness run amok,” he said.

The pending motion filed by the New York-based Waterkeeper Alliance and others is the latest maneuver in long-running litigation over whether animal feeding operations such as dairies, cattle ranches, and pig and poultry farms must report gases given off by decomposing manure.

The D.C. court ruled in April that operations that emit more than 100 pounds of ammonia or hydrogen sulfide in a 24-hour period must report to federal authorities under the Superfund law and to local officials under the Community-Right-to-Know Act.

The court last week delayed the requirement until Jan. 22 to give the EPA more time to



Don Jenkins/Capital Press

Environmental groups accuse the Environmental Protection Agency of seeking to thwart a federal court decision, arguing the ruling requires animal feeding operations such as dairies to warn local firefighters and police officers that their livestock are releasing hazardous gases.

develop Superfund reporting forms tailored to agriculture.

The environmental groups opposed the delay, but more contentious is EPA’s stance that farmers and ranchers still won’t have to register with local officials.

The EPA argues that Congress exempted “routine agricultural operations” from the Right-to-Know Act, and the court’s ruling didn’t change that. The court only rejected the agency’s position that manure gases rising into the air would never need an emergency response.

The EPA says it will write a rule clarifying whether storing and spreading manure is a routine agricultural operation. Until the rule is finished, any court challenge would be premature, according to EPA.

The environmental groups claim that the EPA is misinterpreting the April decision. They argue that releasing ammonia and hydrogen sulfide can’t be considered a routine farming practice.

The court last week set a schedule that gives the EPA and Waterkeeper Alliance until April to submit further written arguments.


Efforts to obtain further comment from Waterkeeper Alliance were unsuccessful.

The Superfund law was inspired by such environmental disasters as Love Canal, a chemical dumping ground in Niagra Falls, N.Y., that destroyed a neighborhood. According to an EPA website, Congress passed the Right-to-Know Act in 1986 as a response to the chemical leak in Bhopal, India. That disaster killed 15,000 to 20,000 people, according to Encyclopedia Britannica.


The EPA under three successive administrations sought to exempt agriculture from the Superfund and Right-To-Know laws. The court, however, ruled manure can give off dangerous fumes and that the information would be useful to firefighters trying to find the source of foul odors.

Gordon said that about a decade ago some dairies thought they had to alert local responders under the law.


“You were making phone calls to firefighters and police stations, and they didn’t know what to do with it,” he said. “They seemed pretty upset about having their phone lines tied up.”




Colonel Kedrick R. Wills
Director



C.L. “Butch” Otter
Governor



Larry A. Hayhurst
State Brand Inspector



Tom Basabe
Board Chairman

STATE OF IDAHO
IDAHO STATE POLICE
IDAHO BRAND BOARD

IDAHO BRAND BOARD

NOTICE OF REFUND ON CATTLE BRAND INSPECTION FEES

On May 18, 2017, the Idaho Brand Board proposed a temporary rule to raise the Cattle inspection fee by \$.25, from \$.94 to \$1.19. There were several factors that led to the increase. The Governor’s recommended Fiscal Year (FY) 2018 budget included line items for increased personnel and equipment costs for the new CS Beef Packer facility. That, along with rising personnel costs, healthcare and benefit costs, cyber security liability insurance costs, combined with lower market induced head count numbers has eroded the Brand Board’s sustainable operating cash. The effective date of the proposed temporary rule for the increased cattle inspection fee was July 1, 2017. It should be noted our last cattle inspection fee increase was in FY 2006.

The Brand Board followed the required protocol through the Division of Financial Management (DFM) which included, filing an Administrative Rules Request Form (ARRF) with DFM for their approval. DFM and the Governor’s office approved the ARRF and forwarded it to the Office of Administrative Rules for publication in the Idaho Administrative Bulletin for June, 2017.

Unfortunately, the second required document “Notice of Rule Making -Temporary and Proposed Rule”, which virtually has the same information as the ARRF, should have accompanied the ARRF to the Office of Administrative Rules. There is serious confusion on why that second document was not submitted to the Office of Administrative Rules, but at the end of the day, the State Brand Inspector is ultimately responsible for the oversight of the Brand Department and failed to seek confirmation. Therefore, the temporary proposed rule did not get published in the June 2017 Administrative Bulletin. Because of that technical error, the July 1, 2017, fee increased effective date was negated. The Brand Board believed everything was in order and it was not until late September that he Board was notified of the error.

Once the Brand Board was notified, an emergency Brand Board meeting was held and a new fee increase effective date was set for October 2, 2017. All documentation was immediately submitted to the Office of Administrative Rules and will be published in the November 2017 Administrative Bulletin.


The Idaho Brand Board always demands transparency and even though its statutory authority in Idaho Code § 25-1160 is capped at \$1.25 for cattle brand inspection fees, the Administrative Rules of the Idaho Brand Board, IDAPA 11.02.01, increased the cattle brand inspection fee of \$.94 to \$1.19 on October 2, 2017.

Since the Brand Department raised the cattle inspection fee to \$1.19 effective July 1, 2017, our customers were technically overcharged \$.25 cents per head from July 1, 2017 to October 1, 2017. Therefore, you are entitled to a \$.25 per head refund on cattle brand inspection fees collected from July 1, 2017 thru October 1, 2017.

If you were a livestock owner and charged a brand inspection fee during this time period, you may request a refund. You must provide proof of your inspection and payment. The cut-off date for refund requests will be January 1, 2018.

Please submit your refund request(s) to: Idaho State Brand Inspector, P.O. Box 1177, Meridian, Idaho 83680.

Sincerely,



Larry A. Hayhurst
State Brand Inspector