

Representing the agricultural and food transportation industry

November 16, 2018

Raymond P. Martinez, Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Martinez:

I write on behalf of the Agricultural and Food Transporters Conference (AFTC), and other interested agricultural organizations, to express sincere appreciation for your careful examination of the American Trucking Associations' petition seeking a determination that California's meal and rest break rules are unenforceable under 40 U.S.C. § 31141. California's state meal and rest break standards place an unreasonable burden on interstate commerce to the detriment of highway safety, and we call on you to swiftly grant the trucking industry's petition.

The imposition of duplicative state meal and rest break rules place a significant burden on the ability of our agricultural commodity and livestock producers to productively move goods in interstate commerce. Truck transportation is involved in the movement of more than 60 percent of agricultural products, far exceeding the volumes shipped by rail and barge. In our view, Congress entrusted FMCSA exclusively with the jurisdiction over the hours-of-service for commercial drivers that work in interstate commerce. This includes rules on driver breaks, striking the proper balance between the paramount concern of highway safety and the needs of interstate commerce, based on its expertise and careful review of the available evidence. These rules provide drivers with ample opportunity for rest, and in particular ensure that all commercial agricultural drivers have the right to a break any time they believe fatigue (or anything else) renders them unable to drive safely. Section 31141 ensures that state rules regulating commercial driver hours do not interfere with that careful, nationally uniform framework.

The petition you are currently reviewing is critical for carriers hauling commodities, including livestock, considering USDA's National Agricultural Statistics Service currently places California at the top of the list for market value of agricultural products sold, making it an industry transporting more than \$42 billion worth of agricultural productsⁱ, including over \$12 billion of livestock. Compliance with the California rules causes significant confusion for out-of-state drivers used to the uniform federal rules, and enormous operational hurdles for those carriers transporting the commodities outside of California. California's break rules reduce freight capacity by arbitrarily putting carriers in jeopardy if they schedule driver workloads

Good stuff.

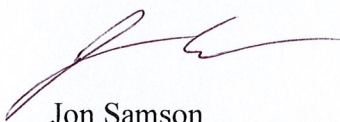


consistent with what FMCSA has deemed appropriate. And they can often stretch out a driver's day longer than it would otherwise be, if carriers need to build in time for California's arbitrary breaks into the workday—thus making the job not only less productive, but less appealing. For many products in the industry, this is of great importance. However for agriculture, the efficient and timely movement of goods – much of it perishable – equates to American's having food in the stores and on their tables.

California's duplicative rules also result in significant ripple effects, including safety ramifications. For instance, drivers who take breaks at the arbitrary frequency directed by those rules use up the limited supply of safe and legal truck parking, thus magnifying the current truck parking shortage plaguing the industry. And this effect appears not to be confined to California itself: according to a FHWA report last year, the scarcity of safe truck parking in neighboring states increases near the California border, and an increase in crashes in those states are likely attributable to the difficulty in finding safe parking. While it is serious enough for California to create these safety problems within its own borders, the spillover effect undermining the safety of national highway network is most alarming. And to counter any safety argument that those supporting California's dangerous and duplicative meal and rest breaks may make, according to recent DOT data, in the period from 2012 to 2016 California has seen the 14th largest increase among the fifty states in fatal crashes involving large trucks—a 25.75% increase—and is the only one of the five largest states that has seen an increase in such crashes in each one of those five years.

For these significant reasons, as well as those outlined in ATA's petition, following your careful review, we urge you to swiftly act within your authority to grant the trucking industry's petition. Thank you for your thoughtful consideration, and we look forward to a determination that will allow commercial agricultural drivers working in interstate commerce to adhere to the nationally uniform hours-of-service framework established by your agency.

With Best Regards,



Jon Samson
Executive Director
Agricultural & Transporters Conference of ATA

On behalf of:
Agricultural Retailers Association
American Farm Bureau Federation
California Farm Bureau Federation
National Council of Farmer Cooperatives
National Grain and Feed Association
The Fertilizer Institute
United Fresh Produce Association
Western Growers Association

¹ https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=CALIFORNIA