



February 14, 2017

Dr. Cornelius F. Kiley
National Manager Animal Welfare, Biosecurity and Assurance Programs Section
Canadian Food Inspection Agency
59 Camelot Drive
3rd Floor West, Room 231
Ottawa, Ontario
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Dear Dr. Kiley,

Re: Proposed Changes to Part XII of the Health of Animals Regulations – Transportation of Animals

The Beef Farmers of Ontario (BFO) appreciates the opportunity to comment on the proposed changes to Part XII of the Health of Animals Regulations – Transportation of Animals recently published in the Canada Gazette Part I. BFO represents the 19,000 beef producers in Ontario by advocating in the areas of policy planning, industry development and research, and domestic and export market development.

As Canada's second-largest cattle feeding and processing jurisdiction, more than 300,000 animals from Western Canada and the Maritimes are transported into Ontario on an annual basis. As such, BFO is concerned about the potential negative impact the proposed changes will have on the competitiveness of the Ontario beef industry.

The following section provides an overview of our comments on the proposed changes to Part XII of the Health of Animals Act Regulations.

SCIENCE-BASED EVIDENCE:

BFO is not opposed to changes to cattle transport regulations, provided they are based on sound, science-based evidence that clearly demonstrates how the changes would irrefutably improve animal welfare and provide the highest percentage of positive outcomes for transported animals without reducing the competitiveness of the Ontario beef industry.

While a number of scientific papers were referenced in the regulatory proposal, BFO is disappointed that the extensive body of beef transport research conducted by Agriculture and Agri-Food Canada (AAFC) in recent years was not. Canada has conducted more large-scale transport research under commercial conditions and using commercial transporters than anywhere else in the world. Since 2006, researchers from AAFC and universities across Canada have worked to establish benchmarks for common industry practices and have examined the effects of loading density and trailer ventilation. Researchers have also investigated the effects of animal and handler behaviour, transport conditions, time and distance in transit, and driving practices on transport outcomes and carcass parameters

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(shrink, bruising and dark cutters) in fed cattle and market cows. None of this research is referenced in the proposed regulatory framework.

OUTCOME-BASED REGULATORY FRAMEWORK:

While BFO supports the move toward a more outcome-based regulatory framework, we remain concerned with the level of discretion provided to Canadian Food Inspection Agency (CFIA) inspectors.

Minimizing stress and preventing injury of animals during transport is a principle that industry wholeheartedly endorses. However, if the application of regulatory requirements is not consistent across all jurisdictions and links of the supply chain, then the industry cannot, 1) educate users of the system about what is and is not acceptable, and 2) take steps to improve processes for animals in transit.

On numerous occasions, the Ontario beef industry has requested that CFIA share inspection training materials to help system users better understand how animals are assessed for compliance. To date, we have been told that training materials used by CFIA to train inspectors cannot be shared or distributed. This is unacceptable.

- **BFO recommends that CFIA extend an invitation to all livestock groups, transporters, auctions, feedlots and processors to participate in CFIA’s Humane Transportation Program training.**
- **BFO recommends that CFIA make their inspector training materials publicly available.**

REGULATORY IMPACT STATEMENT:

BFO is pleased that CFIA recognized the Canadian Livestock Training (CLT) program within the regulatory overview and acknowledged that this initiative provides transport drivers with all the required competencies referred to in the amendment.

Specific to the regulatory impact analysis, BFO believes that CFIA has grossly overestimated the benefit of the proposed regulatory changes to the cattle sector, and grossly underestimated the potential costs. It could be argued that a prescriptive reduction in transport time without flexibility may actually decrease compliance. In addition, it should be recognized that bruising and shrinkage also occur during loading and unloading, and not only as a result of increased time in transit. BFO further believes that lumping livestock sectors into one category skews the cost-impact estimates provided by CFIA, particularly given the fact that many livestock sectors are far more integrated than the cattle industry.

It should be noted that while cost impacts have been assigned to the transportation sector, it is our view that additional costs will, in fact, be borne by producers in the form of increased trucking fees rather than by the transporters themselves.

TIME IN TRANSPORT:

The maximum hours that cattle will be able to go without food, water or rest (FWR) will be reduced from 48 to 36 hours. Ruminants “too young to be fed exclusively on hay and grain” will be able to be transported a maximum of 12 hours without a rest stop, down from 18.



BFO Comments: The Canadian cattle industry’s geography, markets and climate are much different from other cattle jurisdictions, such as the European Union, which leads BFO to believe that these other jurisdictions have limited applicability in the Canadian context. With Canada’s unique set of circumstances, a reduction in the maximum number of hours that cattle can be transported without FWR from 48 to 36 hours (with no additional grace period) will add unrecoverable costs and create logistical problems for feedlots, processors and other beef businesses in Ontario.

- **BFO recommends that at a minimum, any reduction in the maximum time in transport for cattle without FWR provide at least 40 hours of allowable travel time.**
- **While BFO does not oppose the proposed reduction in maximum transport time for ruminants “too young to be fed exclusively on hay or grain”, we require further explanation about how this class of animals will be determined (e.g. verbal declaration, estimated weight, etc.).**

In addition, BFO is concerned that the reductions in maximum transport time may not align with the current transportation infrastructure in Canada. In particular, we are concerned about the capacity for existing rest stations to handle increased volume, as well as the suitability of existing rest station locations across Canada.

- **BFO recommends that CFIA conduct an analysis of current transportation infrastructure before any regulatory change affecting transport times comes into effect. Location suitability, capacity availability, biosecurity practices and rest station infrastructure (handling systems, staffing, etc.) need to be fully assessed. Until an analysis of the current transportation infrastructure is completed and discussed with industry, BFO strongly recommends that existing transport times remain in place.**

If the goal is to reduce time in transport as a way to improve animal welfare and reduce the risk of suffering during lengthy trips, then CFIA must find other ways to reduce time in transport without disrupting commerce.

- **BFO recommends that livestock trucks be given priority access at all border crossings, ferry crossings and weigh stations.**
- **BFO recommends that CFIA and AAFC work with their counterparts at Global Affairs Canada to develop an improved process to allow sealed livestock trucks to be transported through the United States for re-entry into Canada without lengthy approvals or time-wasting border inspections.**

GRACE PERIOD:

The existing 4-hour “grace” period that allows cattle to be trucked for up to 52 hours without FWR will not be applied to the new 36-hour maximum.

BFO Comments: The elimination of the grace period ignores the realities of long-distance transport. Even if transporters believe they will make the trip within the allowable maximum time, unforeseeable



delays beyond what one can reasonably expect do happen (e.g. Nipigon bridge closure, weather delays, equipment malfunctions, traffic delays, etc.).

- **BFO recommends that the existing 4-hour grace period be retained.**
- **BFO recommends that further flexibility be provided to transporters who experience extraordinary delays by establishing an emergency approval request telephone line to allow extended time in transport under certain circumstances.**

REST TIME:

The minimum number of hours that cattle must be fed, watered and rested will be increased from 5 hours to 8 hours.

BFO Comments: What research was the 8-hour rest minimum based on? Although we believe the proposed increase in minimum rest hours is workable in theory, we question the research that was used to demonstrate that 8 hours of FWR irrefutably improves animal welfare outcomes beyond the existing 5-hour requirement.

- **BFO recommends that CFIA provide scientific rationale to justify the increase in the minimum number of hours that livestock must be fed, watered and rested.**

TRANSFER OF RESPONSIBILITY:

No person who transports an animal(s) shall leave the animal at the destination unless the recipient is physically present and accepts responsibility for the animal's care and records the acceptance in writing. In addition, the owner/custodian must provide a written declaration outlining when (date and time) the animal(s) was last fed, watered and rested.

BFO Comments: The requirement for the recipient to be physically present is impractical. Cattle are routinely unloaded outside typical business hours, as many auctions, feedlots and small processors do not employ staff 24 hours a day. Will the transfer of responsibility requirement apply to individuals who transport their own livestock? Have the additional operating costs to intermediate and terminal sites been incorporated into the cost-benefit analysis?

- **BFO recommends that the transfer of care requirement to have recipients physically present to accept incoming livestock be re-evaluated, and that CFIA include the anticipated costs to intermediate and terminal sites to employ staff 24 hours a day.**
- **BFO recommends that CFIA provide clarity as to whether transfer of responsibility requirements apply to individuals who transport their own livestock.**

CONTINGENCY PLANNING:

Every person who transports an animal will be required to establish a contingency plan for unanticipated events, e.g. what to do in case of a mechanical failure while en route. The contingency



plan would need to be communicated to any person involved with the loading, transportation, or unloading of animals.

BFO Comments: This requirement is not well explained. Will contingency plans need to be written down or verbally communicated? What contingencies must be planned for specifically?

- **BFO recommends that CFIA provide interpretive guidance around the contingency planning requirement.**
- **BFO recommends that the requirement to develop contingency plans fall to both owners and transporters.**

RECORDS REQUIREMENTS:

Every transporter must make in writing the following information at the time of loading:

- Name and address of the shipper, consignee and person operating the conveyance;
- Conveyance registration number;
- # of square meters/feet of floor area available to the animals;
- Date and place the conveyance was last cleaned and inspected;
- Date, time and place the animals came into the transporters custody;
- Number, description and gross weight of the animals;
- Date and time when the animals were last fed, watered and rested; and
- Name and address of the destination.

BFO Comments: While we're not opposed to record-keeping requirements, we question how this requirement will be operationalized (e.g. via mandatory manifest?) and how these requirements align or will align with the anticipated record-keeping requirements under impending traceability regulations. The biggest concern we would raise would be the practicality of requiring the date and time the animals were last fed, watered and rested to be recorded. Disclosing the last time cattle were fed, watered and rested would be an estimation at best, given the subjective definitions for each and the challenge that some truckers and order buyers may face in obtaining that information. Time in transport, on the other hand, is much less subjective and easier to enforce and monitor.

- **BFO recommends that the requirement to record the last time animals were fed, watered and rested prior to loading be eliminated in favour of an outcome-based approach that requires those responsible for the care of the animals to provide feed, water and rest to animals to prevent undue suffering during transport.**
- **BFO recommends that unless FWR is provided on a trailer that FWR intervals end at loading and begin at unloading.**

As it relates to the proposed records requirement to disclose the gross weight of the animals on the truck, we question whether this will require a certified scale weight or whether an estimated weight will suffice?

- **BFO recommends that CFIA provide clarity in regards to the proposed records requirement to document the gross weight of the animals.**



EXPORTED ANIMALS:

The proposed regulations prohibit the export of an animal unless the individual responsible for the care of animals has reasonable grounds to believe that the animal will be transported in accordance with Canadian regulations, including reasonable grounds to believe the feed, water and rest requirements could be met for the entire journey.

BFO Comments: This is impractical. There is no reasonable way of knowing whether the animals will be transported in compliance with *Health of Animals Act* requirements once the shipment leaves Canadian jurisdiction.

- **BFO recommends that compliance requirements with the *Health of Animals Act* for exported animals be eliminated given the inability to actually enforce these requirements.**

DEFINITION OF “SUFFERING”:

BFO Comments: Despite recognition that the term “suffering” should specify “undue suffering” within the context of the transportation of animals, all references to “suffering” within the proposed regulatory text omit the word “undue”, which is concerning. The Canadian Agricultural Review Tribunal and the Federal Court of Appeal have recognized that the transportation of animals does result in some degree of unavoidable stress or suffering. As such, regulatory requirements have and should continue to be based on whether animals have experienced “undue suffering”.

- **BFO recommends that all references to animal “suffering” within the proposed regulations include the word “undue”.**
- **BFO recommends that the term “undue suffering” be defined within the definitions section of the proposed regulations.**

Specific Comments on Proposed Regulatory Text:

S.136 (1) – Definition of Compromised

(b) *“has laboured breathing”*

BFO Comments: The term “Laboured” should be defined.

- **BFO recommends that S.136 (1)(b) state: *“has distressed breathing”*.**

(f) *“is slightly lame in one or more limbs with slightly imperfect locomotion”*

BFO Comments: The use of the term “slightly” lame is far too subjective.

- **BFO recommends that S.136(1)(f) state: *“is lame in one or more limbs, exhibiting a noticeable limp”*.**

(c) *“has acute frostbite”*



- (d) *“is totally blind in one or both eyes”*
- (i) *“has an unhealed or acutely injured penis”*
- (k) *“is dehydrated”*
- (l) *“is hypothermic or hyperthermic”*
- (m) *“has a nervous system disorder or is showing signs of one”*
- (n) *“has a fever”*

BFO Comments: These ailments can often be quite difficult to confidently diagnose under normal circumstances.

- **BFO recommends that CFIA provide interpretive guidance on how inspectors will confidently diagnose these conditions.**
- **BFO recommends that any regulatory condition used to determine whether an animal is fit for transport be “visually observable” or “identified upon visual observation”.**

S.140 - Assessment of Risk Factors Related to Transport

“Every person who intends to load or transport an animal shall...assess its capacity to withstand the loading, transportation and unloading....any pre-existing disease, injury or condition...including:”

b) *“any pre-existing disease, injury, or condition of the animal”*

BFO Comments: Health issues that make an animal less fit for transport are not always obvious. The terms “disease” and “condition” are extremely vague and open to a lot of interpretation (or misinterpretation). How can a transporter be expected to know of a pre-existing condition?

- **BFO recommends that CFIA provide interpretive guidance on the assessment of animals to withstand loading, transport and unloading.**

S.141 (3) – Transport of Unfit Animals

“If an animal becomes unfit during transport while on board a conveyance or in a container, no person shall continue to transport the animal or cause it to continue to be transported...”

BFO Comments: It is unreasonable to assume that a transporter will become aware that an animal has become unfit for transport during transport unless it is observed, therefore:

- **BFO recommends that S.143 (3) be reworded to include “observed”:** *“If an animal is observed to be unfit during transport while on board a conveyance or in a container, no person shall continue to transport the animal or cause it to continue to be transported...”*

S. 145 (1c) – Animal Handling

S. 150 (1c) – Conveyances and Containers

“No person shall load or unload an animal...unless it has a secure surface that prevents the animal from tripping, slipping, falling or sustaining an injury.”

BFO Comments: This requirement is impractical and unachievable. It would be impossible to guarantee that a surface will prevent trips, slips or falls during transport under urine/manure-covered flooring, even with adequate bedding.



- BFO recommends that sections 145 (1c) and 150 (1c) be reworded to reflect the fact that conveyance equipment cannot prevent trips, slips, falls or injuries but merely *minimize* the number of trips, slips, falls or injuries that do occur.

S.146 – Weather Protection and Ventilation

“No person shall confine, load, transport or unload an animal, or cause one to be confined, loaded, transported or unloaded, in a conveyance or container if the animal is likely to suffer, sustain injury or die by being exposed to meteorological or environmental conditions, humidity or inadequate ventilation.”

BFO Comments: No transporter or livestock owner can guarantee that an animal will not be exposed to meteorological or environmental conditions that may lead to suffering or injury.

- BFO recommends that S.146 be reworded to include “foreseeable”: *“No person shall confine, load, transport or unload an animal, or cause one to be confined, loaded, transported or unloaded, in a conveyance or container if the animal is likely to suffer, sustain injury or die by being exposed to foreseeable meteorological or environmental conditions, humidity or inadequate ventilation.”*

S.147 (1) - Overcrowding and Space Requirements

“No person shall confine, load or transport an animal...in a conveyance or container that is overcrowded.”

BFO Comments: It is not clear if this requirement will be outcome-based or whether a particular loading density guideline will be provided. It would be inappropriate to prescribe stocking density guidelines beyond currently accepted practices until revisions to the *Transport Codes of Practice* have been completed.

S.149 (1&2) - Segregation

“No person shall confine, load or transport...in the same conveyance...animals that are incompatible with one another unless they are segregated...An animal is incompatible with another animal, if, by reason of its nature, species, temperament, gender, weight or age, it is likely to cause injury, suffering or death to the other animal.”

BFO Comments: It is not clear if these requirements will allow joint transport of cow and calf pairs. Cow and calf pairs must be viewed as compatible animals not subject to segregation rules.

- BFO recommends that CFIA provide interpretive guidance around “incompatible segregation”. Cow and calf pairs must be viewed as compatible animals not subject to segregation rules.

S.159.2 – Feed, Water and Rest

“Every person feeding, watering and resting animals shall provide:”

- “sufficient space to allow the animals to lie down without lying on top of each other”*

BFO Comments: This requirement needs to be clarified. Does the requirement imply that all animals must have space to lie down at the same time? If so, this would be an unreasonable and likely



unnecessary requirement given existing research on animal behaviour. Research and common sense tell us that animals will rotate between lying down, feeding and drinking.

- d) *“sufficient straw or other bedding to protect the animals from suffering or injury”*
- e) *“sufficient straw or bedding to keep animals clean and dry”*

- **BFO recommends that CFIA provide interpretive guidance about how “sufficient” will be interpreted.**

BFO would like to thank the Canadian Food Inspection Agency for providing the opportunity to comment on the proposed changes to Part XII of the Health of Animals Regulations – Transportation of Animals.

Transportation is a critical component of the beef production system in Canada. Minimizing stress and preventing injury of animals during transport is of utmost importance to farmers, livestock transporters, the broader industry and the general public. When concerns involving the welfare of animals during transport are identified, BFO acknowledges its responsibility to consider and offer its perspective to all stakeholders with an interest in the welfare of animals. BFO is respectful of the leadership roles of the government agencies charged with monitoring animal welfare and regulating and enforcing livestock transportation laws in Canada.

We would be pleased to meet with you in person at your earliest convenience to discuss our comments and the proposed changes in further detail.

Sincerely,



Matt Bowman
President

cc: Dan Darling, CCA
Brady Stadnicki, CCA

Oliver Anderson, AAFC
BFO Board of Directors

John Masswohl, CCA

