



June 14, 2021

Meera Joshi
Deputy Administrator
Federal Motor Carrier Safety Administration

Dear Ms. Joshi:

Pursuant to 49 CFR § 389.31, as amended by Rulemaking Procedures Update, 85 Fed. Reg. 86849 (Dec. 31, 2020), People for the Ethical Treatment of Animals (PETA) is submitting this petition to request that the Federal Motor Carrier Safety Administration (FMCSA) establish a rule to bar drivers who have committed certain violations while driving from operating commercial motor vehicles with livestock aboard.

A summary of the proposed rule is set forth below, followed by an explanation of PETA's interest in the action requested, data to support it, and the proposed rule itself.

Thank you for your and your colleagues' time, consideration, and important work. If the FMCSA has any questions regarding this petition, I can be reached at DanielP@peta.org or at 757-962-8231.

Sincerely,

Daniel Paden
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A Summary of the Proposed Rule

The FMCSA administers 49 CFR § 383.51, which features four tables—in subsections (b) through (e)—listing various offenses and providing periods during which drivers convicted of such acts are disqualified from operating commercial motor vehicles (CMVs). That regulation and 49 CFR § 383.37 bar employers from allowing a disqualified driver to operate a CMV.

PETA petitions the FMCSA to add subsection (f) and an accompanying table to 49 CFR § 383.51. The proposed subsection and table would do the following:

- Incorporate offenses, violations, and infractions from the existing subsections and tables of 49 CFR § 383.51;
- Disqualify drivers who commit such acts (whether while driving a CMV or a non-CMV) from operating CMVs *with livestock aboard* for lengthier periods than those for which they're disqualified from operating other CMVs;
- Add other acts to the rule that concerns the petitioner and those it represents, such as committing a traffic offense or violation in connection with any crash of a CMV transporting livestock; and
- Designate periods during which drivers convicted of such acts would be disqualified from operating CMVs *with livestock aboard*.

The proposed subsection incorporates 49 CFR § 395.2's definition of "livestock," and thus would preclude certain drivers from hauling cattle (including dairy-producing cattle), swine, poultry (including egg-producing poultry), fish used for food, and other farmed animals.

The proposed subsection and table do *not* disqualify any drivers from hauling other cargo, including refrigerated and frozen meat and poultry products.

PETA recognizes that the proposed rule would disqualify unsafe drivers from hauling livestock for significantly longer periods than those for which the current regulation disqualifies such drivers from operating CMVs with human passengers. PETA's proposed rule only intends to afford livestock—and other motorists—adequate periods of protection from unsafe drivers, because the current disqualification periods don't do so. As an animal protection organization, PETA is not petitioning the FMCSA to increase the disqualification periods of 49 CFR § 383.51, subsections (b) through (e), as they apply to hauling human passengers. That said, PETA was surprised to find that a first conviction of homicide by motor vehicle or driving under the influence of alcohol or a controlled substance only bars one from operating a CMV for one year.

The proposed subsection and table follow an explanation of PETA's interest in the rule and supporting data.

PETA's Interest in the Proposed Rule

With more than 6.5 million members and supporters, PETA is the largest animal rights organization in the world. It operates, in part, to promote and further the principle that other animals are not ours to abuse in any way. Since its inception in 1980, it has championed ending

the mistreatment of other animals—including those species who are eaten, such as cattle, pigs, chickens, and turkeys.

PETA’s members and supporters have interests in the welfare and rights of species bred, transported, and slaughtered for food. Thus, their interests are harmed when cattle, pigs, chickens, turkeys, and other animals are injured, suffer, and are killed in and following CMV rollovers and other crashes.

In behalf of its members and supporters, PETA has expended significant resources to try to prevent the crashes of CMVs hauling farmed animals. We’ve urged companies that raise and transport these animals to strengthen their driver-hiring criteria and to train drivers in crash prevention, proposed alternate transport routes to avoid stretches of highway where CMVs hauling animals have repeatedly rolled over, and created and supplied safety-awareness magnets for CMVs that remind haulers to drive carefully for the sake of the animals, other motorists, and themselves.

PETA has also worked extensively to mitigate the suffering of farmed animals following these crashes. We’ve responded to numerous rollovers of CMVs hauling livestock and worked with law-enforcement agencies and veterinarians to prioritize the humane on-site destruction of severely injured animals.

The proposed rule would serve the interests of PETA and its constituents by preventing crashes of CMVs hauling livestock and averting the significant dangers and deadly consequences that they present for these animals and motorists.

Data Supporting the Proposed Rule

1. In establishing the FMCSA via the Motor Carrier Safety Improvement Act of 1999, Congress found in 49 U.S.C. § 113 that “[t]he current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.” That finding remains true today regarding CMVs carrying livestock. Using news media and police reports, PETA documented at least 174 crashes of trucks that were hauling livestock in 2019 and 2020—which collectively injured and killed tens of thousands of cattle, pigs, turkeys, and chickens. Relying on similar sources, PETA documented at least 35 crashes of such trucks that injured and killed cattle, pigs, chickens and more in just the first five months of 2021.

1.1. The number of these crashes has increased dramatically in recent years. A report published by Farm Sanctuary in 2006, titled “U.S. Highway Accidents Involving Farm Animals,” found that 233 of these crashes occurred between January 1, 2000, and May 15, 2006, or approximately 43.35 crashes per year. Another study by Jennifer Woods and Temple Grandin, titled “Fatigue: A Major Cause of Commercial Livestock Truck Accidents”—which also tracked crashes in Canada—found that 415 such crashes occurred between January 1, 1994, and June 10, 2007, or less than 30.88 crashes per year in the U.S.

By contrast, during 2019 and 2020, PETA found that an annual average of at least 87 such crashes occurred in the U.S., which represents a more than 200% increase over the annual average of crashes between 2000 and mid-2006.

1.2. These crashes are a nationwide problem. Crashes of trucks hauling livestock occurred in at least 39 states over 2019 and 2020, according to PETA’s compilation of news reports on the incidents. Between January 1 and May 30, 2021, reports show that these crashes have occurred in 23 states.

1.3. Crashes of trucks hauling livestock are inherently severe. In 2019 and 2020, according to news reports, at least 20 of the 174 crashes of livestock-hauling trucks that PETA is aware of killed one or more human beings. About 11.49% of such crashes over that period were fatal to one or more motorists.

By contrast, in 2018—the latest year for which such statistics are known to be available—4.6% of all large-truck crashes were fatal, according to FMCSA’s “Large Truck and Bus Crash Facts” (Crashes Table 26). Accordingly, livestock-hauling truck crashes kill one or more human beings at approximately 2.5 times the rate at which all crashes involving large trucks do.

For example, on January 3, 2019, a tractor-trailer carrying 160 pigs on Interstate 15 in Beaver County, Utah, crossed the median into oncoming traffic and struck another vehicle, pushing it into a 100-foot-deep ravine, according to a *KSL.com* report on January 4, 2019, titled “Woman Dead After Livestock Semi-Truck Crashes in Beaver County.” That driver, a 41-year-old woman from Cedar City, Utah, was pronounced dead at the scene.

On December 22, 2019, a 55-year-old Philadelphia man died on Interstate 80 in Luzerne County, Pennsylvania, after his vehicle was struck by a tractor-trailer that was hauling cattle. In an apparent incident of road rage, Thomas K. Wilt of Lexington, North Carolina, allegedly sped up and struck the rear end of the man’s truck, which ran off the road, according to a *Times Leader* report from December 23, 2019, titled “Truck Driver Charged With Leaving Scene of Fatal Accident.” Wilt was apprehended hours later at the slaughterhouse where he delivered the cattle.

It’s no surprise that automobile drivers are often injured in crashes with CMVs hauling livestock, given that a lighter vehicle typically absorbs more energy from a crash than a heavier vehicle does. There’s a remarkable difference in the mass of CMVs hauling livestock and those of passenger vehicles. For example, a five-axle tractor-truck and semi-trailer combination hauling pigs or cattle could weigh 80,000 pounds. That’s more than 19 times the weight of an average automobile in model year 2019, which was 4,156 pounds, according to the 2020 “EPA Automotive Trends Report.”

Many crashes involving livestock-hauling trucks also result in one or more vehicles being so disabled that they must be towed away. In Woods’ and Grandin’s study of such crashes between 1994 and mid-2007, the CMV was upright after the crash in less than 12% of the crashes for which data were available. The CMV rolled over in more than 83% of those crashes and caught on fire or came to rest on its roof in another 13 crashes. The involved CMV was totaled at nearly all the livestock-hauler crashes to which PETA staff have responded.

1.4. Of course, crashes involving trucks hauling livestock are especially severe for the animals involved. Farmed animals are injured and killed in the majority of—if not virtually all—crashes of the CMVs hauling them. In some instances, most or all the animals involved are injured or killed in the crash—which, in incidents involving chickens, can mean that thousands of animals suffer or die in a single wreck.

Animals are ejected from CMVs during and immediately after crashes, falling onto and being strewn across highways, shoulders, and surrounding land. For example, on May 7, 2020, a driver who was hauling cattle rolled a CMV in Neligh, Nebraska. A nearby business’s camera recorded live cattle being ejected through the roof of the overturned trailer, as can be seen on a [newschannelnebraska.com](https://www.newschannelnebraska.com) report from May 8, 2020, titled “WATCH: Semi Overturns, Throwing Cattle at Neligh Liquor Store Building.” Three cows were killed in the wreck, and at least four others were destroyed on-site to relieve their suffering. After some crashes of CMVs hauling livestock, animals are struck, injured, and killed by passing motorists.

The most common type of CMV crash in which livestock are involved are rollovers, which often crush the animals under the trailer and one another. Animals are left piled up and trapped in the trailers, typically for hours, until they can be extricated. In some cases, animals are burned to death when a crash causes a CMV to ignite.

PETA staff have been on scene following numerous wrecks of CMVs, particularly those hauling pigs, and have seen the shredded remains of the animals killed in them. We’ve seen debilitated, terrified, and distressed survivors be dragged by the ears and electro-shocked to force them onto replacement trucks bound for the slaughterhouse—even those with injuries such as bloody intestinal tissue protruding from their bodies. We’ve seen bolts driven into the brains of the most injured animals—bolts that sometimes malfunction, necessitating multiple shots to the head before the animals experience seizures and slowly die.

2. According to Congress in the aforementioned Act, regarding motor carriers generally, “[m]eaningful measures to improve safety must be implemented expeditiously to prevent increases in ... crashes, injuries, and fatalities.” Again, the same is particularly true today of CMVs carrying livestock.

2.1. Those operating CMVs are responsible for the overwhelming majority of crashes involving livestock. In Woods’ and Grandin’s study, the CMV operator was found to be at fault in 337 of 393 crashes—or more than 85%—in which that data was available. Another driver was deemed to have been at fault in less than 11% of the crashes. Similar findings resulted from the Farm Sanctuary study of such crashes in the U.S. That study found that another driver was at fault in just 15.5% of the crashes involving trucks hauling livestock.

2.2. The livestock industry does not do enough to prevent crashes of CMVs hauling livestock—especially when hiring and contracting with drivers—which necessitates this rule. The industry has repeatedly proved itself unable or unwilling to screen its drivers carefully enough to prevent those with lengthy records of abysmal, reckless driving from hauling livestock and endangering the animals and other motorists.

On June 7, 2010, Jonathan Daniel Leggett crashed a tractor-trailer on a ramp leading off Interstate 95 in clear weather conditions in Chesterfield County, Virginia, while hauling 80 pigs for Smithfield Foods subsidiary Murphy-Brown, LLC. According to an article published by *NBC12.com* on June 8, 2010, titled “Pig Loose After Truck Overturns,” approximately 46 pigs were killed upon impact and in the hours that followed because of the terrible injuries and related trauma that resulted from the crash. Leggett was cited for reckless driving and failure to maintain control. PETA found that only *three months* earlier, he had crashed a tractor-trailer that was hauling 46 cattle in Harnett County, North Carolina, according to a March 9, 2010, report in *The Sanford Herald*. In that incident, he allegedly rear-ended another vehicle as he attempted to pass it in a no-passing zone, sending both vehicles off the road and down an embankment and the other driver to the hospital. Approximately 35 cattle were killed in the incident, and Leggett was cited for failure to reduce speed as well as for improper passing. Virginia court records indicate that while hauling pigs in the year preceding this crash, he was accused of traveling 56 mph in a 35-mph zone and failing to obey a traffic signal and was fined in both matters.

On April 24, 2013, Mark Robert Nepsa was hauling nearly 1,000 turkeys for Circle S Ranch, Inc., when he crashed a tractor-trailer in Henry County, Virginia, according to an April 25, 2013, report in the *Martinsville Bulletin* titled “Hundreds of Turkeys Killed in Truck Accident.” Nepsa ran off U.S. Route 220 and overturned the vehicle, and many turkeys were killed upon impact and in the hours that followed. Nepsa was cited for failure to maintain proper control of the vehicle. Through a simple search of public records, PETA discovered that he had been charged with at least 12 traffic offenses in North Carolina and South Carolina since 1986. In July 2003, he was convicted of driving while impaired (DWI) in Mecklenburg County, North Carolina, and had his driver’s license revoked—for at least the second time. He had also been convicted of driving while his license was revoked and of speeding, after being charged with traveling 63 mph in a 45-mph zone in Union County, North Carolina.

On April 17, 2018, Nathan Reiss crashed a truck that was full of cattle in Broome County, New York, killing four of the animals, and was cited for operating at a speed unsafe for the conditions, according to an April 17, 2018, report in the *Press & Sun-Bulletin* titled “Trailer Carrying 33 Cows Overturns on I-81 in Chenango, Four Cows Dead.” Court records show that only four days earlier, Reiss had pleaded guilty in Susquehanna County, Pennsylvania, to two citations for operating a vehicle in unsafe condition and a third citation under a law barring one from removing or rendering inoperative required vehicle equipment. Three months earlier, according to court records, a judge found Reiss guilty of driving at an unsafe speed in Bucks County, Pennsylvania.

In fact, there appear to be no mentions of screening the driving records of those hired or contracted to haul livestock in this industry’s flagship animal welfare and production publications. PETA is unaware of any such guidelines or standards, for example, in the Beef Quality Assurance’s *Transportation Manual*, the National Milk Producers Federation’s *Animal Care Reference Manual*, the National Chicken Council’s *Animal Welfare Guidelines and Audit Checklist*, the United Egg Producers’ *Animal Husbandry Guidelines for U.S. Egg-Laying Flocks*, the National Turkey Federation’s *Animal Care Guidelines*, or the National Pork Board’s *Transport Quality Assurance Handbook*.

2.3. The livestock industry ignores commonsense requests to strengthen its practices for the screening and hiring of drivers, even in light of the fatal consequences of those poor practices. For example, in 2010, C. Larry Pope—then the CEO of Smithfield Foods—didn’t respond to PETA’s written request that the company prohibit employing drivers who had repeated driving-related criminal offenses or who were found to have been at fault in any crash, as Leggett had before wrecking a truck that was full of pigs for Smithfield Foods. Ronnie Parker, general manager of Circle S Ranch, didn’t respond to a similar written request from PETA on the heels of Nepsa’s crash in 2013.

Similarly, PETA wrote to Bob Ivey, general manager of Goldsboro Milling Co., after David Earl Lambert crashed a tractor-trailer in Isle of Wight County, Virginia, on April 19, 2013, while hauling 184 pigs for that company. In clear weather conditions, Lambert ran off the dry, defect-free surface of U.S. Route 258 and overturned the vehicle. Several pigs were ejected, and 55 of them were killed on impact and in the hours that followed because of their severe injuries and related trauma. Lambert was cited for failure to maintain his lane of travel. PETA easily found that he had been charged with at least 15 traffic offenses across nine North Carolina counties since 1995, including reckless driving, speeding (five citations), using a radar detector, operating an uninsured vehicle, and seeking to evade federal motor-carrier safety regulations. Ivey never replied to PETA’s request to strengthen his company’s driver-screening procedure.

Finally, exemptions for livestock haulers from hours of service and electronic logging device requirements risk allowing more fatigued drivers to operate CMVs with farmed animals aboard. With its ability to prevent such operators’ fatigue—and the crashes that it contributes to—diminished, it becomes all the more important for FMCSA to help prevent crashes by adopting the proposed rule.

3. The United States should “reduce the number and severity of large-truck involved crashes through ... stronger enforcement measures against violators,” according to the aforementioned Act. One purpose of the FMCSA’s regulations pertaining to commercial driver’s license (CDL) standards “is to help ... prevent truck ... accidents, fatalities, and injuries by ... disqualifying drivers who operate commercial motor vehicles in an unsafe manner,” according to 49 CFR § 383.1. The proposed rule’s strong disqualification measures against unsafe drivers would prevent wrecks of CMVs hauling livestock and save humans’ and other animals’ lives.

For example, the proposed rule would have prevented Leggett, Nepsa, and Reiss from being able to drive—and crash—CMVs hauling livestock despite their respective records of crashing another CMV with farmed animals aboard, DWI, and speeding, among other offenses.

The proposed rule’s disqualification measures would have similarly prevented Lacy Louis King Jr. from crashing a CMV hauling at least 160 pigs in Suffolk, Virginia, on November 13, 2020. King ran off the road and rolled the trailer onto its right side, trapping the crying pigs for at least four hours and injuring at least eight so severely that they were shot on site to relieve their suffering, according to records that PETA obtained from the Suffolk Police Department. King had been found guilty in March 2007 of reckless driving by speed and, two months later, of traveling 47 mph in a 35-mph zone, according to Virginia court records.

Again, had the proposed rule been in effect, Brian D. Crockett wouldn't have crashed a tractor-trailer with more than 170 pigs aboard near Smithfield, Virginia, on January 10, 2018, killing at least 10 of the animals. In the five years preceding that crash, Virginia court records show that Crockett had been convicted of nine driving-related crimes and infractions, including traveling at 74 mph in a 60-mph zone in January 2014 and traveling at 70 mph in a 55-mph zone in August 2015.

The Proposed Rule

PETA proposes that the following subsection and table be added to 49 CFR § 383.51:
 (f) *Disqualification from operating certain CMVs for offenses and traffic violations.* Table 5 to § 383.51 contains a list of offenses and the periods for which a person who is required to have a commercial learner's permit (CLP) or CDL is disqualified from operating a CMV transporting livestock, as defined in § 395.2, depending on the type of vehicle that the driver is operating at the time of the offense or violation, as follows:

TABLE 5 TO §383.51

If a driver operates a motor vehicle and pleads no contest to or is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP- or CDL-holder must be disqualified from operating a CMV transporting livestock as defined in § 395.2 for	For a first conviction or refusal to be tested while operating a non-CMV, a CLP- or CDL-holder must be disqualified from operating a CMV transporting livestock as defined in § 395.2 for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP- or CDL-holder must be disqualified from operating a CMV transporting livestock as defined in § 395.2 for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP- or CDL-holder must be disqualified from operating a CMV transporting livestock as defined in § 395.2 for
(1) Causing a fatality through the negligent operation of a CMV or a non-CMV,	20 years	20 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement

including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide				
(2) Any traffic offense or violation in connection with any crash of a CMV transporting livestock, as defined in §395.2	20 years	20 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(3) Being under the influence of alcohol as prescribed by State law	15 years	15 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(4) Being under the influence of a controlled substance	15 years	15 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(5) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV	10 years	Not applicable	Life—not eligible for 10-year reinstatement	Not applicable
(6) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the regulated or posted speed limit	10 years	10 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(7) Driving recklessly, as defined by State or local law	10 years	10 years	Life—not eligible for 10-	Life—not eligible for 10-

or regulation, including, but not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property			year reinstatement	year reinstatement
(8) Having an alcohol concentration of 0.04 or greater	10 years	10 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(9) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in §383.72 of this part	10 years	10 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(10) Leaving the scene of an accident	5 years	5 years	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement
(11) Speeding, involving any speed between 8.05 kmph (5 mph) and 22.5 kmph (14 mph) above the regulated or posted speed limit	5 years	5 years	15 years	15 years
(12) Making improper or erratic traffic lane changes	3 years	3 years	10 years	10 years
(13) Following the vehicle ahead too closely	3 years	3 years	10 years	10 years
(14) Violating State or local law relating to motor vehicle traffic control (other than a parking	3 years	3 years	10 years	10 years

violation) arising in connection with a fatal accident				
(15) Driving a CMV without obtaining a CLP or CDL	3 years	Not applicable	10 years	Not applicable
(16) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV. ²	3 years	Not applicable	10 years	Not applicable
(17) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV. ²	3 years	Not applicable	10 years	Not applicable