



Animal Justice

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**Submission to the House of Commons' Standing
Committee on Agriculture and Agri-Food**

**Amendments to the Health of Animals Regulations
(Humane Transportation)**

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**Anna Pippus, B.A., J.D.
Director of Farmed Animal Advocacy**

In 2015, the most recent year for which complete numbers are available, 750 million farmed animals were killed for food in Canada at federally and provincially inspected slaughterhouses. Virtually all of these animals were transported at least once—some more than once—in their lives, making transportation a pressing issue which impacts hundreds of millions of individuals' lives each and every year.

The current Health of Animals Regulations were enacted in 1977. Animal advocates have been calling for their reform since at least the 1980s. Meanwhile, transnational jurisdictions like the European Union, Australia, and New Zealand have outpaced Canada by establishing more modern standards that better reflect animal welfare science and public expectations.

Given existing transport regulations are so old and their reform so overdue, modest updates are insufficient. Rather, the transport regulations are due for an overhaul. Science and public sentiment have both evolved dramatically in the past 40 years since the regulations were first enacted.

Documents obtained under access to information legislation and reported by the Globe and Mail showed the animal agriculture industry heavily influenced the amendments to the Health of Animals Regulations.¹ This is unacceptable. Industry's concerns must be balanced with scientific evidence and public expectations that animals not suffer and die under archaic transportation conditions.

Following are specific concerns with the proposed regulatory amendments. The concerns are summarized at the end of this brief.

Outcome-Based Regulations Can Create Ambiguity and Negatively Impact Animals

It is a basic tenet of the rule of law that laws must be flexible enough to be adaptive to unique situations, but also predictable and foreseeable for those subject to the laws. Sometimes it is difficult to balance flexibility with predictability. When it is possible to create specific and predictable laws with no real loss to flexibility, it is plainly preferable that laws are indeed created with specificity and predictability.

One of the four objectives of the proposed amendments was to “move towards a more outcome-based regulatory framework.” In other words, instead of setting out prescriptive standards, outcomes are mandated and it is left to the regulated parties to determine how to achieve these outcomes. Importantly, outcome-based regulations lack predictability and foreseeability, particularly at the margins—at least more so than prescriptive regulations.

Outcome-based rules are suitable when there are multiple actual or conceivable and interchangeable appropriate ways to achieve a specific outcome and/or where flexibility is essential to avoid burden and rigidity. They are also suitable only when regulated parties have demonstrated a commitment and the ability to achieve the defined outcome; where the outcome is routinely not achieved, a prescriptive approach ought to be considered. Finally, outcome-based and prescriptive measures can also be used in tandem.

¹ Ann Hui, “CFIA bowed to meat industry on animal transport rules, documents show,” The Globe and Mail, March 16, 2017.

For example, the Health of Animals Regulations prescribe specific ramp angles (e.g. up to 25 degrees for pigs)² rather than simply legislating the outcome (that ramps not be too steep so as to cause suffering). A prescriptive rule is suitable in the case of ramps because flexibility is not essential, there is a body of evidence to support particular ramp angles for particular species, and regulated parties, law enforcement, and animals all benefit from the predictability and foreseeability engendered by prescribed ramp angles.

The proposed Health of Animals Regulations use solely outcome-based measures in at least two instances where some prescriptive measures are needed: exposure to weather and loading densities. Each of these will be discussed in more detail in sections that follow.

It is of paramount importance that outcome-based measures not be used where prescriptive rules would be more appropriate; otherwise a race to the bottom is encouraged, there is inconsistency between producers, laws are under-enforced by regulators, and public trust is eroded.

Exposure to Extreme Weather and Inadequate Ventilation Should be Regulated

“It is probably impossible to be in compliance with the Regulations consistently throughout the year on all of the loads because the system that is being used is totally inadequate.”

- Dr. Gordon Doonan, CFIA veterinarian, testifying as an expert witness in R. v. Maple Lodge Farms

Perhaps the most urgent issue that has not yet been addressed in the regulatory amendments is the fact that animals are exposed to extreme weather in open-sided trucks or crates—sometimes with rudimentary, imprecise tarpaulins—which lack mechanical ventilation to regulate temperatures and humidity. Canadian summers can be hot and humid; our winters cold, windy, and wet.

The preamble to the proposed regulatory amendments indicates that 1.59 million animals per year are reported as dead on arrival. These are animals who were loaded alive but did not survive to their destination. A major contributor to these in-transit deaths is weather exposure and a related lack of adequate ventilation, and in particular, extreme heat, extreme cold, humidity, precipitation (leading to wetness), windchill, and so forth. Exposure to the elements on uninsulated, unventilated trucks can combine with overcrowding and long transport duration (especially without drinking water) to create fatal conditions.

We cannot control the weather. And, in practice, animals are transported every day of the year regardless of climatic conditions, with extremely limited exceptions. This means modernized vehicles that can regulate temperature and humidity throughout must be mandated, or it must be mandated that animals cannot be transported in extreme weather. Otherwise, animals will continue to not only be exposed to extreme weather, but to suffer and die from exposure.

² Animal Justice believes this ramp angle is too steep, which will be addressed later in this brief.

Since 2004, the European Union has required long-distance animal transport vehicles for most species be designed, constructed, and maintained in such a way that temperature can not only be maintained within a prescribed range evenly throughout the vehicles, but also monitored with a system that will alert the driver if the temperature reaches either limit and that will be recorded for the purposes of law enforcement.³

The proposed regulations do not update the weather and ventilation rule, instead merely rewording the old one. Existing regulations prohibit transporting animals if injury or undue suffering is likely to be caused by exposure. The proposal is to prohibit transporting animals if they are likely to suffer or die from exposure. This is not materially different.

Simply prohibiting suffering due to weather exposure, rather than prescribing standards, is a quintessential example of how outcome-based rules, when used inappropriately, can permit suffering and death. The fact that suffering due to weather exposure has already been banned since 1977 and that suffering due to weather exposure—even according to the government’s own data—occurs with regularity is sufficient evidence that the existing approach is not working.

For example, in 2013, Maple Lodge Farms was convicted under the Health of Animals Act for allowing both broiler (meat) chickens and spent egg-laying hens to suffer and die because of weather exposure.⁴ At trial Maple Lodge Farms argued that it had exercised due diligence. That is, the position of this industry leader was that even when it’s doing its best, industry equipment and timelines will sometimes result in high DOA rates.

CFIA veterinarian Dr. Gordon Doonan similarly testified in that case that “It is probably impossible to be in compliance with the Regulations consistently throughout the year on all of the loads because the system that is being used is totally inadequate.”⁵ In other words, according to both the industry and the regulator, the current approach doesn’t adequately protect animals.

The situation hasn’t really improved since then. In 2014, internal documents from the CFIA showed 17.4 percent of shipments of spent hens had DOA rates above 4 percent—the rate at which an investigation is triggered, assuming negligence. DOA rates that year were documented being up to 51.59 percent—meaning more than half of animals were loaded alive and did not survive the journey as a direct result of transport conditions.⁶

It’s clear that exposure to extreme weather is a real, ongoing, and serious issue in animal transport—one that the industry has not sufficiently undertaken to resolve. Third-party legislative action is essential if severe animal suffering and negligent death are to be curtailed.

³ Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97.

⁴ R. v. Maple Lodge Farms, 2013 ONCJ 535 (CanLII)

⁵ R. v. Maple Lodge Farms, 2013 ONCJ 535 (CanLII), para. 133.

⁶ Animal Justice, Access to Information Documents Reveal Sobering Government Collusion with Big Ag, February 15, 2017, online at: <http://www.animaljustice.ca/blog/access-to-information-documents-reveal-sobering-government-collusion-with-big-ag/>.

In fact, in the case against Maple Lodge Farms, Justice Kastner of the Ontario Court of Justice called upon the legislature to revisit transport regulations, and presumably given the subject matter of the case, rules relating to weather exposure.⁷

Species-specific, quantifiable, and evidence-based regulations should protect animals from weather exposure and inadequate ventilation. Ideally, climate controlled vehicles will be required (they are already used to transport chicks in Canada). Prescriptive standards (e.g. establishing temperature ranges for each species) can be combined with outcome measures (e.g. allowing industry to determine how it will maintain temperatures within the specified range).

Leaving it to industry to determine what constitutes likelihood of suffering from exposure creates inconsistency, confusion and a certain but indefensible margin of error. Evidence-based and specific-specific temperature and humidity ranges can and should be legislated.



A cow arrives at a Toronto slaughterhouse with icicles hanging from her mouth on March 14, 2017. Temperatures were around minus nine degrees Celsius that day. This is considered a “warning sign” of cold exposure in the National Farm Animal Care Council’s Transportation Code of Practice.⁸

⁷ R. v. Maple Lodge Farms, 2013 ONCJ 535 (CanLII), para. 470.

⁸ Canadian Agri-Food Research Council (now the National Farm Animal Care Council), Recommended code of practice for the care and handling of farm animals — Transportation (2001).



Open-mouthed pigs aboard a transport truck in Toronto in June 2015. Activist Anita Krajnc has been charged with mischief for giving water to these pigs. At her trial, veterinary expert Dr. Armaiti May testified that these pigs were panting, breathing as quickly as 180 breaths per minute, which is how animals without sweat glands attempt to cool down. They were also foaming at the mouths. Dr. May testified that these animals were likely “in severe distress.” Ms. Krajnc testified that she regularly witnesses animals in this condition.⁹

Quantifiable Loading Densities Should be Legislated

The proposed regulatory amendments to reduce suffering and death from overcrowding are outcome-based. Prescriptive standards, setting out allowable weight as a function of floor space, would be more effective at achieving harmonized and positive animal welfare outcomes.

In the European Union, outcome goals are described but then augmented with species-specific loading densities, expressed as kilograms per square metre. For example, “All pigs must at least be able to lie down and stand up in their natural position. In order to comply with these minimum requirements, the loading density for pigs of around 100 kg should not exceed 235 kg/m².”

Similarly, Canada’s Transportation Code of Practice sets out in Appendix 2 density charts, with species-specific modifications suggested for hot humid weather and longer transport durations.

⁹ Samantha Craggs, “Pigs headed for slaughter were in distress when Anita Krajnc gave them water: expert,” CBC News, August 25, 2016.

The Health of Animals Regulations, too, should contain quantifiable, species-specific loading densities, using outcome goals to augment the prescriptive numbers-based requirements. Such rules would improve predictability for producers, the identification and prosecution of legal violations, and animal welfare outcomes.

Duration of Transport Without Food, Water or Rest Should be Reduced

The proposed Feed, Water and Rest provisions (ss. 159 to 159.3) are a good example of how outcome-based measures can be combined with prescriptive measures. Animals must be provided with water, feed, and rest that prevents dehydration, metabolic abnormality, and suffering from fatigue respectively; species-specific time intervals are also legislated.

However, the particular allowable durations are of concern. The proposed amendments would permit compromised animals to be transported without food, water or rest for 12 hours, chickens (including spent layer hens, who are inherently compromised) for 24 hours, horses and pigs for 28 hours, and cattle and other animals for 36 hours.

Internal documents from the CFIA summarize research showing that detrimental effects are observed in spent hens at 8 hours, in broiler chickens at 12 hours, in horses at 10 to 24 hours, in pigs at 12 hours, and in cattle at 24 to 29 hours.¹⁰ These durations should not be exceeded. Extensions should only be permitted if on-board and/or en-route water and food needs are met.

Electric Prods Should be Prohibited or More Strictly Regulated

The proposed regulations state that it is prohibited to “apply an electric prod to sensitive areas of the animal including the belly and the anal, genital and facial regions of the animal, or to any region of the animal if it is three months of age or less or is a horse, goat or sheep.”

By contrast, the proposed Safe Food for Canadians Regulations, which apply at slaughterhouses, state that:

- (2) A licence holder may apply an electric prod to a food animal if
 - (a) the food animal is a pig or a bovine;
 - (b) the prod is applied to the lateral portion of the rear leg muscles between the hock joint and the hip joint; and
 - (c) the food animal has sufficient space to move forward.¹¹

At minimum, this more stringent requirement should also be legislated under the Health of Animals Regulations. It is non-sensical and confusing for one set of regulations to have a stricter requirement than another set of regulations that apply to the same regulated parties regarding the same regulated activity.

¹⁰ *Ibid.*

¹¹ Safe Food for Canadians Regulations, Canada Gazette, Vol. 151, No. 3 — January 21, 2017, section 128(2).

In practice, electric prods are grossly overused to force animals to move. In 2014, the Toronto Star reported that pigs who “could barely walk [were] forced to move by employees wielding electric prods.” Worse, at times it was CFIA inspectors who actually retrieved electric prods “for workers to use on pigs, including a pig [who] couldn’t walk and had to later be put down.”¹²

In light of their casual use by workers and the documented complicity of law enforcement, ideally electric prods would be banned altogether. In the alternative, they should be permitted only when animal or worker safety is at risk and all other measures have been exhausted. Finally, it should be specified that prods cannot be used on non-ambulatory animals.

Permitted Ramp Slopes Should be Reduced

The proposed regulations would permit ramp slopes that are too steep, especially for pigs. Ramps could be up to 35 degrees for deer, goats, and sheep; up to 30 degrees for cattle and horses; and up to 25 degrees for pigs.

In the European Union, ramps cannot be steeper than 20 degrees for pigs, calves and horses; and no steeper than 26 degrees for sheep and cattle other than calves.¹³ In Australia, ramps for adult cattle can be no more than 20 degrees and for calves no more than 12 degrees; for pigs, ramps should be no more than 20 degrees.¹⁴

Pigs in particular struggle with steep ramps. Research shows pigs’ welfare is seriously compromised when loading ramps have angles over 15 to 20 degrees and unloading ramps over 20 degrees.¹⁵

Canada’s Transport Code of Practice recommends slopes of no more than 20 degrees for pigs and 25 degrees for cattle; these figures should be adopted in the regulations.¹⁶

¹² Stephanie Kampf, “Pigs abused as federal inspectors on site failed to act,” Toronto Star, October 11, 2014.

¹³ Chapter VI, Section 1.4, Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97.

¹⁴ Australian Animal Welfare Standards and Guidelines — Land Transport of Livestock. Animal Health Australia (AHA) 2012, Canberra.

¹⁵ E. (Bert) Lambooj, “Transport of Pigs,” in Temple Grandin, Ed., *Livestock Handling and Transport, 4th Edition: Theories and Applications* (2014) CABI.

¹⁶ Section 4, Table 2, Canadian Agri-Food Research Council (now the National Farm Animal Care Council), Recommended code of practice for the care and handling of farm animals — Transportation (2001).

Teeth Cutting Should be Prohibited or Regulated

In 2014, footage from inside a federally inspected pig assembly yard showed restrained boars having their innervated tusks cut to the gum line while the animals screamed in pain.¹⁷ This teeth cutting is performed to prevent animals from harming each other when they are placed in situations that incite aggression.

Researchers from the University of Guelph and the Ontario Ministry of Agriculture have reviewed the available evidence and concluded that “tusk trimming should be avoided or reduced where possible.”¹⁸

Transport regulations should ban teeth cutting in favour of transporting animals separately. If teeth cutting continues to be permitted, painkillers should be required and at least 2 cm of tusk should remain above the gum line (a suggested measurement from University of Guelph’s researchers).

Training Requirements Should be Harmonized and Enhanced

The proposed regulations include a requirement that employees are trained in animal behaviour; animal handling, restraint, loading densities and transportation methods; contingency plans in the event of delays or injuries en route; and assessment of risk factors prior to transport. These training requirements can be waived if the employee already has the knowledge and skills.

This training requirement is a step in the right direction, but it is insufficient. It is especially insufficient if solely outcome-based measures regarding weather exposure and loading densities are retained, leaving too much ambiguity and potential for variation at the expense of animal welfare.

The government should implement and oversee a licensing program for both drivers and companies.

Drivers should obtain a nationally standardized licence which includes both continuing education and accountability components (multiple animal welfare violations should result in suspension and ultimately loss of licence to transport animals).

Companies should also be licenced to improve transparency and accountability. In particular, companies should be able to demonstrate that they can comply with transportation regulations (including weather exposure requirements) and should face licence suspension or loss if a pattern of animal welfare violations is not addressed.

¹⁷ CBC News, CFIA investigating alleged animal abuse at Red Deer Hog facility, October 12, 2014, online at: <http://www.cbc.ca/news/canada/edmonton/cfia-investigating-alleged-animal-abuse-at-red-deer-hog-facility-1.2796697>.

¹⁸ Bovey, K., Lawlis, P., DeLay J., Widowski, T. “An Examination into the Innervation and Condition of Mature Boar Tusks at Slaughter,” University of Guelph, online at: <http://www.uoguelph.ca/ccsaw/doc/TuskTrimmingFactSheet.pdf>.

Summary of Recommendations

The law should protect farmed animals in transport by ensuring that:

- specific, measurable regulations are set out as appropriate to remove ambiguity and improve animal welfare. Relying solely on outcome-based measures—particularly regarding weather exposure and loading densities—creates inconsistency and erodes public trust.
- animals are not exposed to extreme weather. If animals continue to be transported on days of extreme weather, numbers-based species-appropriate standards should ensure animals do not suffer and die on uninsulated, unventilated vehicles.
- animals are not overcrowded. Measurable, science-based loading density maximums should be regulated.
- transport duration without food, water and rest is limited to: 8 hours for compromised animals including spent hens, 12 hours for broiler chickens and pigs, and 24 hours for cattle.
- the use of electric prods be prohibited unless animal or worker safety is at risk.
- ramp slopes are no more than 20 degrees for pigs and 25 degrees for cattle.
- male pigs do not have their nerve-filled tusks cut off. Instead, they should be transported separately from one another. If their teeth are cut, it should be done with painkillers and 2 cm of tooth should remain above the gum line.
- drivers and transport companies are licenced under a nationally harmonized scheme that establishes consequences for failing to comply with standards.

About Animal Justice

Animal Justice is a national organization comprised of lawyers, law professors, and other legal experts with special expertise in Canadian and transnational laws that impact animals. Our lawyers have appeared in all levels of court in Canada, testified before various committees, written for a wide variety of technical and popular publications, lectured in law schools and other educational institutions, and appeared in the media talking about animal law issues.