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September 27, 2019

U.S. Department of Transportation  
1200 New Jersey Avenue SE  
West Building, Ground Floor, Room W12-140  
Washington, DC 20590

**RE: Docket No. FMCSA-2018-0348. *Hours of Service of Drivers; Definition of Agricultural Commodity***

The National Cotton Council (NCC) is the central organization of the United States cotton industry. Its members include producers, ginnings, cottonseed processors and merchandizers, merchants, cooperatives, warehousemen and textile manufacturers. A majority of the industry is concentrated in 17 cotton-producing states stretching from California to Virginia. U.S. cotton producers cultivate between 9 and 12 million acres of cotton, with production averaging 12 to 18 million 480-lb bales annually. The downstream manufacturers of cotton apparel and home furnishings are located in virtually every state. Farms and businesses directly involved in the production, distribution and processing of cotton employ more than 125,000 workers and produce direct business revenue of more than \$21 billion. Annual cotton production is valued at more than \$5.5 billion at the farm gate, the point at which the producer markets the crop. Accounting for the ripple effect of cotton through the broader economy, direct and indirect employment surpasses 280,000 workers with economic activity of almost \$100 billion. In addition to the cotton fiber, cottonseed products are used for livestock feed and cottonseed oil are used as an ingredient in food products, as well as being a premium cooking oil.

The Federal Motor Carrier Safety Administration (FMCSA) seeks public comment to assist in determining whether, and if so to what extent, the Agency should revise or otherwise clarify the definitions of “agricultural commodity” or “livestock” in the “Hours of Service (HOS) of Drivers” regulations. Currently, during harvesting and planting seasons as determined by each State, drivers transporting agricultural commodities, including livestock, are exempt from the HOS requirements from the source of the commodities to a location within a 150-air-mile radius from the source.

Sec. 4130 of SAFETEA-LU enacted a definition now codified at 49 CFR 395.2. In that definition, “*Agricultural commodity*” refers to any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471] and insects).

Although the statutory definition of “agricultural commodity,” set forth in § 395.2, is quite detailed in some respects, FMCSA believes it is also circular and ambiguous. For example, “agricultural commodity” is defined in part as “any agricultural commodity. . .” The definition is thus susceptible to multiple interpretations.

**COMMENT:**

While the National Cotton Council understands FMCSA's concerns over differing interpretations of the existing definition, that definition is currently, in most cases, being interpreted in such a way as to allow the cotton industry to transport its products throughout the supply chain. Therefore, we believe that the current definition is appropriate to our purposes and does not need modification at this time.

Thank you for the opportunity to comment. This definition, and the exemption it encompasses, are of the utmost importance to the U.S. cotton industry.

Regards,

A handwritten signature in black ink that reads "Steve Hensley". The signature is written in a cursive, flowing style.

Steve Hensley  
Senior Scientist, Regulatory and Environmental Issues