

AFTC - 2008 YEAR IN REVIEW

While some ebbs and flows occurred with difficult business conditions the net total membership of AFTC for 2008 remained at nearly 500.

In 2008 the AFTC Board of Directors was joined by four new members: Brian Hitchcock from Michigan who hauls various ag commodities, Joe Antonini from California who hauls fruits and vegetables, Bob Kulick from Texas who hauls food and supplies for pizza restaurants, and Dave Regnery who is CEO of Thermo King Corp. based in Minnesota.

The officers serving AFTC for 2008 were: Dave Schroyer, AFTC Chairman and Representative to ATA Board, Rick Yost, First Vice Chairman, Bill Patterson, Second Vice Chairman, and John Whittington, Secretary.

Board Members At Large were Dennis Berryhill, Bob Chituras, John Drewes, Albert Eiden, Ted Fick, Ray Fonseca, Cliff Hicklin, Freddie Hill, Bill Jayne, Stephen Johnson, Tom Lee, James Merritt, Mike Miller, Al Nunes, Greg Owen, Mark Petersen, Chuck Segrest, Rob Spear, John Teresi, Bud Wallace, Shorty Whittington, and Ed Rocha.

Following is a summary of the year's activities and issues addressed:

CARGO SECUREMENT:

In November 2007 AFTC was involved with the USDOT Federal Motor Carrier Safety Administration (FMCSA), California Trucking Association, and the California Highway Patrol to complete testing procedures to prove that methods used for securing loads of fruits and vegetables are safe and effective. This testing allowed the industry to maintain their use of these methods which have been used for decades but were not included in new federal cargo securement rules issued earlier.

The problem arose when California started to enforce the new federal rules. The testing in 2007 allowed for an open ended exemption to the new federal rules to be issued by the CHP in May 2008 while a revision to the federal rules is being worked through the approval process. This effort saved the produce hauling industry millions of dollars since compliance with the new federal rules would have added unnecessary costs in labor, time and equipment.

LIVESTOCK TRANSPORTATION:

Much activity occurred on livestock transportation issues in 2008 as animal rights activists' efforts to publicize limited cases of animal abuse in meat processing facilities have put animal care issues under scrutiny.

AFTC-member livestock haulers, led by AFTC Livestock Division Chairman Rick Yost of VY Truck Lines, crafted a Humane Handling and Animal Welfare Policy which each member company may adopt to outline their company's proper animal care procedures. The American Meat Institute, which represents meat processors, is creating audit procedures for livestock haulers that deliver animals to their plants.

Livestock industry representatives gathered in February, in Kansas City, Missouri for a Livestock Transportation Conference as part of multi-day event, the Animal Care and Handling Conference, hosted by the American Meat Industry (AMI) Foundation in response to an increasing focus on ensuring optimal care during livestock transportation and cosponsored by AFTC. AMI represents the meat processing industry; also present at the conference were representatives of the livestock production and marketing sectors as well as government officials and academic researchers. Several motor carriers involved in livestock transportation presented the perspective of professional livestock transporters.

A "lowlight" of the day was a frightening presentation from a gentleman from the United Kingdom discussing operating conditions in the European Union (EU) for livestock haulers. He reported on radical tactics of animal rights activist groups in Europe and legislation and regulations from the European Commission in Brussels that have resulted in a very high cost of doing business in the 27 member states of the EU. Representatives from across the industry agreed on the need to work together to produce consensus on recommended best practices before government action occurs similar to that in Europe.

In April representatives of AFTC met with representatives of the livestock production and meat processing industries in Kansas City to discuss transportation issues, mostly focusing on meat processors desire to implement audits of transporters regarding animal welfare practices. The most significant developments were that the representatives of the meat packing plants committed that audits that they had in mind were intended to only cover transportation of livestock which are bound for slaughter; would be conducted mostly by plant personnel while they may also involve some outside auditors; and would not be paid for by the transportation companies. The actual audit procedures that they plan to use were released a few months later in June and AFTC reviewed it and provided feedback regarding several areas of concern. Discussion also occurred on several other issues. The group heard summaries and updates of the Pork Transport Quality Assurance program and the Master Cattle Transporter program. The consensus was that the format of the pork program was favored by meat packing plants since it is the most developed and includes a test for the driver to certify completion. NCBA indicated that they plan to add a similar test to the beef cattle program soon. The group discussed whether to address issues unique to all species of livestock but decided to focus on pigs and cattle for now.

The Humane Handling and Animal Welfare Policy that was developed by AFTC members was discussed to get feedback from representatives of the meat packing companies. That discussion resulted in a few very slight edits but nothing substantial.

This policy was developed as only a recommended document that can be used to any company as they see fit.

Also, in April AFTC presented views regarding how modern livestock transportation by truck protects the welfare of the animals at the Animal Agriculture Alliance Summit in Arlington, Virginia. The transportation session at the summit included presentations about trucking procedures of AFTC members, unique work done by AFTC member company Murphy Brown, and a discussion of air transportation methods by the manager of animal transportation for FedEx, who is also President-Elect of the Animal Transportation Association. The AFTC presentation focused on livestock transporters' commitment to ensuring animal welfare by training drivers in proper animal handling practices, using proper equipment to provide for animal comfort, proper care during loading and unloading, and proper scheduling to minimize time on trailers. The Murphy Brown presentation highlighted work done to ensure proper response to care for animals when accidents inevitably happen.

In May AFTC hosted several government agencies in a tour to examine the security vulnerabilities associated with livestock transportation. The tour involved a stop at a livestock trucking company terminal owned by ATA member LW Miller Companies of Logan, Utah, in addition to visiting a cattle feedlot and a livestock market all located near Greeley, Colorado. An indepth discussion followed the tour involving the government representatives with representatives of LW Miller Companies and Heath and Turpin Trucking Company of Lamar, Colorado. Representatives of government agencies included the U.S. Department of Agriculture, U.S. Department of Homeland Security, Federal Bureau of Investigation, Sandia National Laboratories, Colorado Department of Agriculture, and Colorado Brand Inspection Commission. The work produced important strategic plans to protect the U.S. livestock sector from the threat of introduction of infectious disease which could potentially destroy a large portion of livestock production.

In June AFTC and other livestock industry groups briefed U.S. Secretary of Agriculture Ed Schafer regarding industry efforts to ensure that livestock are handled in a professional manner. Secretary Schafer hosted a meeting involving livestock industry organizations together with Humane Society of the United States (HSUS) representatives to discuss these issues along with viewing the latest HSUS undercover video alleging animal abuse. The video was only one in a series of undercover videos shot by animal rights activists to promote their radical agenda. Livestock industry representatives pointed out that the goal of HSUS seemed to be focused on obtaining sensational video instead of practical solutions since they continued to shoot video rather than immediately report abuse to someone in management at the facility.

FOOD SAFETY:

Legislative proposals were introduced to address food safety issues during 2008 but none were passed into law. However, several regulatory initiatives moved forward during the

year and AFTC was involved to ensure that the views of food transporters were taken into account.

AFTC met with a group of state regulatory officials and produce industry representatives regarding initiatives at the state level, sent comments to the U.S. Food and Drug Administration (FDA) in response to two Federal Register notices, and also attended and two public meetings on produce traceability to present the views of food transporters. AFTC also participated in a research project regarding transportation practices for food commodities to identify areas where food is at risk for intentional or unintentional adulteration.

State level initiatives:

AFTC has been involved, along with others in the food transportation industry, in a Food Transportation Expert Elicitation conducted by the Eastern Research Group Inc. of Lexington, Mass., a contractor for the FDA's Center for Food Safety and Applied Nutrition (CFSAN). The goals of this project are to research current transportation and holding practices for food commodities and identify areas where food is at risk for intentional or unintentional adulteration. While the final report of this research has not yet been released, this project and others will help to characterize the current state of food transportation practices and appropriately identify any deficiencies that may be addressed in future regulatory initiatives.

FDA Research:

An effort which began in 2007 to develop a "state model code" for increased regulation of food safety issues on the state level continued into 2008. It is being led by the Association of Food and Drug Officials (AFDO), an association of state food safety regulatory agencies such as Departments of Agriculture and Consumer Services, and supported by a few agricultural producer organizations in the fruit and vegetable industry who have suffered losses from produce recalls during incidents of contamination.

The group has held sporadic meetings over several months and staff of ATA and the Agricultural and Food Transporters Conference (AFTC) has been involved in discussions with this group to steer them away from language which could have been particularly troublesome for the food transportation industry and subsequently wrote a letter outlining our overarching concern that new state laws are unnecessary and cannot assure consistency across state lines when state legislatures decide to each add their own unique perspective to their laws and enforcement processes.

The troublesome language that was part of an earlier draft would have imposed numerous requirements upon transporters such as driver training regarding food safety practices, inspection and maintenance of transport equipment for cleanliness, etc. and confused the lines of responsibility between shippers and carriers in regard to loading procedures, temperature control, cleanliness of trailers, and documentation of prior loads. Writing good industry practices into state law could turn out to create an unnecessary, costly, and

confusing burden of government inspections and reporting requirements in various states. The language was also clarified to apply only to fresh produce but the precedents that could be set by its implementation are cause for concern.

Produce traceability:

The U.S. Food and Drug Administration's (FDA) two meetings on produce traceability; the first in October in College Park, Md., and the second Nov. 13 in Oakland, Calif. The meetings provided insight into where the industry and FDA may be headed on this important topic. It is still not clear whether the government will issue new regulations or let the industry pursue their own solutions. While this effort by FDA is focusing on fresh produce the precedents set are important since the tracing systems set into place, whether industry-led or government regulations, could be extended to other areas of food handling.

Much discussion occurred regarding industry-led efforts of the Produce Marketing Association (PMA) and United Fresh Produce Association (UF). The Produce Traceability Initiative (PTI) has been a multiyear effort that has recently produced consensus for enhanced tracing systems among produce growers and shippers. PTI would use UPC bar codes on produce cases and would require many in the produce industry to incur a significant cost to upgrade their capabilities but the plan does not envision the bar code reading to be the responsibility of the transporter.

Third-Party Certification Programs:

In May AFTC sent a response to FDA's request for comments regarding Third-Party Certification Programs for Foods and Feeds as part of its Food Protection Plan. The comments expressed the view of AFTC members that third party certification programs have some effectiveness in an appropriate context but the transportation of food is not the most appropriate application of such programs. AFTC members reported that they received very little to no value relative to their most quality driven customer auditing processes and that receiving the highest recognition from audits brought no more business to this company, but it did add significant costs. The response also pointed out that the customer fear of liability and recalls running them out of business makes industry very strong self auditors and our members don't see regulatory agencies or third party audits helping them improve relative to customer name brand protection.

Ranking of food safety risks:

AFTC sent comments to the FDA in December in response to its Federal Register notice asking questions about food industry practices, including transportation.

The main point addressed in the letter was in response to the question by FDA regarding the appropriateness of ranking or prioritizing among potential food safety issues according to relative risk or importance. The letter encouraged the agency to focus appropriately on the most frequently cited sources of contamination and not on industry

segments such as transportation which have a safe record. Using FDA's own words, it was pointed out that several potential sources of contamination, "such as worker health and hygiene, water quality (pre- and post-harvest), domestic and wild animal issues, and facility and equipment sanitation have been cited frequently by investigators during inspections at farms and facilities that were implicated in outbreak investigations" while the last significant case of food contamination involving mishandling during transportation occurred 14 years ago.

BUILDING ALLIANCES WITH AGRICULTURAL ORGANIZATIONS:

With the highway bill reauthorization debate approaching next year AFTC is doing the groundwork to be the leader in Washington, D.C. on agricultural transportation issues. Building alliances with agriculture groups has begun by educating them about the issues that will be important to all of us so that we can work together and lead them as a coalition.

The first step in this process was the Trucking 101 session that was held for agricultural organizations in October at our ATA headquarters. That session was attended by about 45 individuals representing various agricultural and food organizations and companies and positioned AFTC/ATA as the leader in these issues and the "go to" organization. Following up to that session, AFTC provided agricultural organization representatives with a concise document of priorities for the highway bill that will be important to their members. The document covers the issues of the agricultural exemption to hours of service, trucking productivity and highway funding. This will allow an opportunity for them to carry our message when they will be in Washington in the spring of 2009 making visits on capitol hill. While this document is targeted toward an agriculture audience and focused on agriculture specific priorities this effort could serve as great opportunity to build alliances on top ATA priorities as well such as opposition to tolling and overall highway funding since agricultural exports must come through congested urban areas on the way to ports.

OBJECTIVES FOR 2009:

HIGHWAY REAUTHORIZATION BILL:

As Congress debates the transportation reauthorization bill in 2009 AFTC will focus on three priority issues:

1) MAINTAIN AND EXPAND AGRICULTURAL HOURS OF SERVICE EXEMPTION

Background: Generally, truck drivers are limited to a maximum of 11 driving hours per day which is recorded in a log book that must be presented to a law enforcement officer upon request. However, in agriculture, planting and harvest is a busy and critical time during the agricultural production process and timing is paramount to achieve maximum efficiency. Therefore, the agricultural hours of service exemption relieves truck drivers working in the agriculture industry from complying with this regulation if operating within a 100 mile radius of their farm or distribution point. It is targeted to the transportation of agricultural commodities during harvest season from the field to the first point of processing or delivering farm supplies from a distribution point to the farm during planting season. Planting and harvesting without this exemption would require a substantially larger fleet of trucks and drivers and result in higher costs to farmers and/or missed production opportunities.

When this provision was implemented in 1995 the Federal Highway Administration (FHWA) proposed to limit it to a 50 air mile radius but USDA supported a 150 air mile radius, commenting to FHWA that, “Most of the major farm production states are rural in nature and sparsely populated. Distances from farms to supply facilities, storage facilities and markets are great.” Since 1995 there has been significant industry consolidation in the agricultural industry and processing facilities are now much further from the farms. Railroad abandonment of service to many local communities also means that many farmers must now deliver their commodities to railheads at significantly greater distances.

Proposed change: The agricultural industry provision needs to be updated by expanding the radius to 150 miles to better serve the needs of today’s agriculture industry.

The Opposition: The Commercial Vehicle Safety Alliance (CVSA, the trade association for commercial vehicle law enforcement) has stated publicly its intention to seek repeal of HOS exemptions during the next Highway Bill. (In addition to agriculture similar exemptions exist for the industry-specific needs of water well drillers, construction, oilfield workers and utilities, to name a few.) However, in public criticism of the ag HOS exemption CVSA has inaccurately described it as applying to long haul trucking for commodities in processed form which would not even be eligible for the exemption. While insinuations have been made, the Department of Transportation has never presented any evidence that this provision has adversely affected safety. Trucking companies serving the agricultural industry have reported excellent safety records while using this exemption, primarily due to the seasonal nature of planting and harvesting activities and lesser congestion in rural areas.

2) PASS LONG OVERDUE TRUCKING PRODUCTIVITY IMPROVEMENTS

Reform of federal truck size and weight regulations is long overdue. While highway safety remains our highest priority, agricultural commodities compete in a world market against other countries which enjoy higher efficiencies created by less stringent government regulation. This gives them a competitive advantage in many areas including trucking efficiency in the form of much higher truck size and weight.

Increased fuel prices have made trucking efficiency even more critical. Trucking productivity improvements could lower shipping costs, thus reducing costs to U.S. manufacturers, farmers, retailers and, ultimately, to consumers by producing cost savings through a reduction in the number of trips by using vehicles with a greater payload. The additional axles and braking capacity used in these trailer designs would offset the extra weight and eliminate any additional safety concerns and negative impacts on pavement.

ATA has proposed several ways to increase trucking productivity. While much of the focus has been on increased weight the agenda is broader than that since the trucking industry is broad and diverse. These proposals were discussed by ATA staff with several business and agriculture organizations in an October meeting in Washington, D.C. in an effort to build consensus going into next year's highway bill reauthorization debate.

A comprehensive package of reforms could include:

1. Allow states to authorize 6-axle, 97,000 pound tractor semi-trailers.

Single-trailer trucks could carry a gross vehicle weight (GVW) of 97,000 lbs, provided the truck has six axles, including a tridem axle on the rear of the trailer.

The U.S. Department of Transportation estimated that nationwide operation of this trailer design would:

- a) Reduce overall truck vehicle miles traveled by 11% (fewer trucks);
- b) Reduce truck traffic and congestion which results in fewer truck-involved accidents; and,
- c) Produce a 19% decrease in fuel consumption and emissions versus an 80,000 lbs GVW truck, when measured on a ton-mile basis.

This design would maintain highway safety and infrastructure integrity by:

- a) Providing the same braking distance as equivalent to a five axle truck/trailer at 80,000 lbs;
- b) Providing equal weight dispersion on roads to prevent the additional weight from increasing the wear and tear on our roadways; and,
- c) Preventing damage to bridges by allowing states to maintain the ability to determine appropriate routes as has traditionally been done. This will allow states the option of shifting heavier vehicles from secondary roads to Interstate Highways that have stronger bridges.

2. Lift the arbitrary 80,000 lbs GVW cap for 5-axle combination vehicles.

Current federal axle weight and bridge formula limits could be maintained while lifting the 80,000 lbs GVW cap. For trailers with tandem axles spaced 96 inches or more apart this would allow a maximum GVW of 86,000 lbs.

3. Allow western states to harmonize longer combination vehicle laws and regulations.

A Federal Highway Administration study reported that allowing expansion of uniform western state longer combination vehicle (LCV's - double and triple trailers) use would result in a 25.5% reduction in total truck vehicle miles, a slight reduction in pavement maintenance costs, 12% lower energy consumption, 10% less noise, and 12% lower emissions with about a 4% cost reduction to shippers for total savings of just over \$2 billion per year.

4. Allow targeted expansion of LCVs beyond western states.

LCVs operate on a limited basis in states beyond those in the western uniformity scenario. Expanded use of LCVs in states that are interested in allowing these configurations can help relieve congestion, improve air quality, reduce crashes, and reduce fuel usage.

5. Allow states to authorize double 33-foot trailers.

The Transportation Research Board recommended nationwide operation of double 33' trailers, with no gross weight cap and weight limited by the current federal bridge formula and axle weight limits for a maximum weight of 111,000 lbs on 9 axles. The double 33' trailer combination is appropriate for operation on most highways because its operational characteristics are similar to a 45' tractor/semi-trailer combination.

6. Standardize 53 foot trailer length.

While national trailer uniformity is federally protected for 48' trailers, 53' trailers have become the industry standard. Federal law should be brought up to modern standards to ensure the continued protection of the flow of interstate commerce by changing minimum trailer length limits to 53'.

3) INCREASE FUNDING TO ADDRESS INFRASTRUCTURE NEEDS

According to the U.S. Trade Representative, roughly one-third of crops planted in the U.S. are exported, so the agriculture industry is heavily dependent on an efficient system of moving products to ports. Congestion must be addressed to improve the efficiency of moving agricultural commodities through major population centers and port areas but rural highways also must be maintained so farm commodities can get coastal states for export as well as to local markets. A study commissioned by the Federal Highway Administration estimated that gridlock costs Americans \$78 billion and wastes 4.2 billion hours per year.

A strong federal role and financial responsibility for funding highway projects is important since farm exports must move in interstate commerce to arrive at ports or local markets. Less emphasis should be placed on toll roads and privatization of highway facilities and more on traditional, equitable funding through the fuel tax mechanism.

Private/tolled highways don't work in rural areas since the traffic densities do not exist to make it viable.

The current surface transportation program, which is funded primarily by the Highway Trust Fund (HTF), must dedicate a greater percentage of funds to the National Highway System (NHS). The percentage of revenue flowing from the HTF to non-highway projects such as bicycle and pedestrian paths and mass transit systems must be minimized or reduced and federal project delivery requirements, including environmental requirements, for NHS projects, must be streamlined.

FOOD SAFETY:

Congress is expected to devote substantial debate to food safety issues during 2009. In announcing its Food Protection Plan in November 2007 the FDA requested new legislative authority in several specific areas, some which could have direct affects on the food transportation industry.

The plan requests authority:

- to require entities in the food supply chain to implement measures solely intended to protect against the intentional adulteration of food by terrorists or criminals;
- to require companies to implement practical food defense measures at specific points in the food supply chain where intentional contamination has the greatest potential to cause serious harm, such as requiring locks on tanker trucks transporting food; and,
- to require contaminant tracing, or identifying where the contaminant has traveled within the food or feed supply.

While the outlook for actual completion of a food safety bill is uncertain the recent changes in political control during the last election are expected to only increase the focus on initiatives such as this which would shift more focus toward increased consumer protections and away from allowing responsible business decisions in the market to achieve responsible actions. Regulatory initiatives are expected to continue moving forward as well.

AFTC will monitor this debate and weigh in as necessary to represent the interests of the food transportation industry in debates over FDA regulations and/or legislation addressing food safety issues.

LIVESTOCK TRANSPORTATION:

Much political pressure is expected in 2009 from the growing animal rights movement.

The livestock industry expects opponents of animal agriculture to feel emboldened by the overwhelming November passage of Proposition 2 in California which eliminated common livestock production practices that veterinarians have called safe and humane,

Transportation is expected to be their next target. They see now a method by which they can win at the state level, and they are going to try to translate that to the federal level.

Radical animal rights groups have openly stated that they want to see an end to long distance transport that they define as any transportation that goes beyond the nearest slaughterhouse since, according to them, the alternative to these long journeys already exists in the form of the transport of chilled or frozen meat.

Horse slaughter has been discontinued in the United States. Legislation outlawing the practice has advanced in Congress the past several years, but has not passed. The bill gained support from many members of Congress, but it was legislation and litigation on the state level that shut down the two remaining horse slaughter plants last year. Since that time, horses have been trucked to slaughterhouses in Mexico and Canada. Animal rights activists are working hard to shut down this remaining avenue that horse owners have -- the trade and transport of horses for such a purpose.

At the urging of animal rights groups, legislation was introduced in July by U.S. Rep. John Conyers of Michigan, Chairman of the House Judiciary Committee. The legislation would make it a criminal offense, punishable by a fine and/or up to three years in prison, for anyone to possess, ship, transport, purchase, sell, deliver, or receive a horse with the intent to slaughter for human consumption. Although the bill, H.R. 6598, did not achieve final passage through Congress it did receive substantial support.

The radical animal rights groups pushing these issues should not be expected to go quietly into the night. They are well-funded and well-motivated and are known to press on toward their goals. Once a victory is achieved on horse slaughter there is sure to be more on their menu.