Animal Welfare Institute

Farmed Animals in Transport: The Twenty-Eight Hour Law

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Since its founding in 1951, the Animal Welfare Institute has been alleviating suffering inflicted on animals by people. AWI works to advance the welfare of animals raised for agricultural purposes–on the farm, during transport, and at slaughter.

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In This Report •

About the Research •

This report presents an examination by the Animal Welfare Institute (AWI) of enforcement of the Twenty-Eight Hour law by federal agencies between 2006 and 2022. The analysis is based on a review of agency publications and investigation materials received through the Freedom of Information Act (FOIA). The report concludes with recommendations for how the responsible agencies can improve enforcement of the law. This report was prepared by Adrienne Craig of AWI.

September 2025 (second edition)

Executive Summary

This report presents the findings of an extensive review of the federal government's enforcement of the Twenty-Eight Hour Law. This law generally prohibits interstate transport of certain farmed animals for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.[1] The Animal Welfare Institute (AWI) submitted multiple Freedom of Information Act (FOIA) requests to three federal departments covering a 17-year period to analyze enforcement of the law. The report describes the current framework of the Twenty-Eight Hour Law, pinpoints problems with the law and its enforcement, and outlines the (underused) authority of the US Department of Agriculture (USDA) and the US Department of Transportation (DOT) to enforce the law.

From the records received, AWI concluded that the law is rarely enforced, due to an inadequate monitoring system and a lack of statutory and regulatory clarity about which departments should enforce the law and how they should work together to do so. Specific findings include the following:

- → **Millions of animals are transported interstate each year, and virtually none of these shipments are monitored for violations of the Twenty-Eight Hour Law.** Available data from a variety of sources suggest that shipping animals without food, water, or rest for longer than 28 hours is a common practice.
- → **Of the three federal departments associated with the Twenty-Eight Hour Law, two—the US Department of Justice (DOJ) and the DOT—have not promulgated specific regulations to assist with enforcement of the law.** The DOT could not provide AWI with any records related to the law, even though the law is codified within federal transportation statutes. DOJ regulations assign actions related to the law to its Criminal Division (CRM); however, only the DOJ's Environment and Natural Resources Division (ENRD) produced records related to enforcement—and these were minimal, heavily redacted, and gave no indication that the DOJ has brought a case under the law in the last 20 years.[2]
- → **The USDA, on the other hand, has taken some responsibility for its enforcement.** The USDA's "Statement of Policy under the Twenty-Eight Hour Law" was incorporated into the federal regulations in 1963.[3] At that time, however, rail cars were still the main form of transportation for farmed animals. This section of the regulations has not been amended since, despite the fact that trucks have long since replaced rail cars as the main form of transport for farmed animals.

In 2003, the USDA noted in an intra-agency memo that the Twenty-Eight Hour Law also applies to animals shipped in trucks.[4]

→ **Records received from the USDA via FOIA show only 18 USDA enforcement inquiries into possible violations of the law over a 17-year period from 2006 to 2023.**[5] AWI located another investigation through online research, in addition to one pending investigation that AWI became aware of via USDA Food Safety and Inspection Service (FSIS) records.[6] This brings the total number of USDA investigations during this period to 20. In at least 12 of these, the USDA found sufficient evidence for a violation of the law and issued four "official warnings."

→ Records indicate only one of the possible violations was reported to the DOJ to determine whether further action was appropriate, and DOJ records give no indication that a civil suit was brought as a result. **FOIA records suggest that the USDA has been unable to substantiate violations because (1) livestock haulers are not required to keep detailed records of duration, mileage, or stops, and (2) standard industry forms that producers send with the animals do not provide** accurate or complete information regarding the journeys.

→ **Records indicate that the USDA treats Canadian companies as *de facto* exempt from the law.**

Possible approaches to improving enforcement of the law are offered at the report's conclusion.

Legal Background •

THE TWENTY-EIGHT HOUR LAW

The Twenty-Eight Hour Law was enacted in 1873, repealed and replaced in 1906, and repealed and re-enacted in amended form in 1994. In its current form, the law states that a carrier transporting animals interstate "may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest."[7] At some point before transport exceeds 28 consecutive hours, animals must be unloaded into pens in a humane manner, provided food and water, and allowed to rest for at least five hours before transport is resumed.

There are four exceptions to the law:

1. Sheep may be confined for an additional eight hours when the 28-hour period ends at night.
2. Animals may be confined for more than 28 hours when there is an accident or unavoidable circumstance.
3. Animals may be confined for 36 consecutive hours when the owner or custodian requests in writing (separate from the standard industry transport documentation) that the period be extended—although the law is silent as to whom this request must be made.
4. The law does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

The statute states that a carrier or owner of a truck who knowingly and willfully violates the law is subject to a civil penalty of at least $100 but not more than $500[8] for each offense.[9] The Twenty-Eight Hour Law stipulates that the DOJ, once notified of a violation, "shall bring a civil action to collect the penalty."[10] Although the law is located in the section of federal code governing transportation, it is the USDA that has traditionally conducted investigations of potential violations.[11]

REGULATIONS UNDER THE TWENTY-EIGHT HOUR LAW

There are at least three government entities associated with the Twenty-Eight Hour Law: the USDA, the DOJ, and the DOT. The USDA has historically conducted investigations of potential violations of the law. The law directs the DOJ to pursue civil penalties for violations. And the law is codified in Title 49 of the US Code, which covers transportation. Neither the DOJ nor the DOT have promulgated specific regulations to help enforce the law. The DOJ regulations only state that "civil or criminal forfeiture or civil penalty actions" under the Twenty-Eight Hour Law "are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Criminal Division."[12] As discussed in more detail below, however, despite these regulations, the DOJ has assigned oversight of the law to the ENRD, rather than the CRM.

In 1963, the USDA incorporated its "Statement of Policy under the Twenty-Eight Hour Law" into the federal regulations, indicating the department acknowledges that it plays a role in enforcing the law.[13] The language identifies the amount of food, water, and rest that should be given to animals transported on rail carriers. Animals are to have "sustaining rations" of feed, an "ample supply of potable water," and enough space so that all animals can lie down simultaneously. Additionally, the regulations state that animals unloaded for feed and water and then put back in the transport container for rest are to be given not less than two hours in the pens; if unloaded for feed only, animals are to have not less than one hour in the pens.[14]

These feeding and watering regulations have not been amended since their codification in 1963. At that time, rail cars were still the main form of transportation for farmed animals. In 2003, after rail cars had become nearly obsolete for farmed animal transport, the USDA's Animal and Plant Health Inspection Service (APHIS) wrote an intra-agency memo noting that the Twenty-Eight Hour Law also applies to animals shipped in trucks.[15] In 2005, animal advocates petitioned APHIS to publicly recognize that the Twenty-Eight Hour Law applies to trucks used for the interstate transport of animals.[16] The agency responded to the petition with a letter stating that "the plain meaning of the statutory term 'vehicle' in the Twenty-Eight Hour Law includes 'trucks' which operate as express carriers or common carriers."[17] However, the USDA has not updated its regulations to align with current animal transport practices.[18]

Monitoring and Enforcement of the Twenty-Eight Hour Law •

Rail carriers were responsible for a majority of interstate shipments of animals from the time the Twenty-Eight Hour Law was enacted in 1873 until the 1960s. The number of railroad stock cars used to carry animals decreased from 80,000 in 1922 to 31,000 in 1960.[19] In 1919, rail carriers shipped approximately 35 million tons of animals and animal products. By 1960, the amount had decreased to 9.5 million tons,[20] and it continued to decrease in subsequent years as multi-unit, long-haul trucks became more popular.[21]

During the period when rail carriers transported most live animals, the USDA enforced the Twenty-Eight Hour Law. Initially, the USDA tasked the (now defunct) Bureau of Animal Industry with regulating the interstate movement of animals.[22] During the 11-year period from June 1906 to June 1917, the bureau reported nearly 9,000 violations of the Twenty-Eight Hour Law, which resulted in $426,818 in penalties.[23]

As the number of animals shipped on railroads decreased, so did the number of Twenty-Eight Hour Law enforcement proceedings.[24] Cases involving rail carriers still appear in the records, however, throughout the first half of the 20th century. In 1941, for example, a railroad appealed a 1937 decision against it to the First Circuit Court of Appeals. In 1938, a case against a rail carrier reached the US Supreme Court, which weighed in on the definition of "willfully" under the law.[25]

A thorough search of Westlaw records suggests that the DOJ did not initiate suit for any violations of the Twenty-Eight Hour Law—on railroads or trucks—during the second half of the 20th century. There were reports of violations, but these, too, continued to drop. For instance, there were 400 reported violations in 1967.[26] In 1976, there were fewer than 100.[27] This may be due, in part, to the fact that the USDA did not affirm that the law applied to trucks until 2003.[28] In 1964 and 1971, animal welfare organizations attempted unsuccessfully to secure federal legislation clarifying that transport of animals via trucks was covered under the law.[29]

Even though the USDA now acknowledges that the law applies to trucks, the results of FOIA requests to the DOJ, the USDA, and the DOT help illustrate that enforcement of the Twenty-Eight Hour Law has not improved in the 21st century. AWI submitted FOIA requests to the DOJ asking for all records related to the Twenty-Eight Hour Law from 2006 to 2009. The request was forwarded to three divisions within the DOJ—Environment and Natural Resources, Justice Management, and Civil. The Justice Management Division indicated that it had no involvement with the law's enforcement, while the ENRD and Civil Divisions could not locate any records from this period. Later, in communication with the DOJ, AWI learned that the ENRD is the only division that maintains records related to the Twenty-Eight Hour Law.[30] Responsibility for enforcement of this and other animal welfare laws has been officially assigned to the ENRD (although the regulations assigning oversight to the CRM have not been amended).[31]

In response to its requests, AWI has received no evidence to suggest that the DOT has played any role in enforcement of the Twenty-Eight Hour Law, even though the law is codified within the US Code title covering transportation. In 2019, the DOT's Federal Motor Carrier Safety Administration (FMCSA) conducted 3.27 million roadside inspections for commercial driver violations. That year, the agency cited nearly 1 million violations falling under 185 separate driver violation codes.[32] None of these inspections or violations involved enforcement of the Twenty-Eight Hour Law.

AWI has submitted FOIA requests to the DOT's Office of Inspector General (OIG) and the

FMCSA. The OIG's response to the request stated that the office had no records on file related to the Twenty-Eight Hour Law for the period between 2006 and 2016.[33] The FMCSA produced no records related to enforcement in response to AWI's requests for any such records dating from 2006 to 2018.[34] As of this writing, requests to the FMCSA for records through 2024 are still pending.

The USDA, on the other hand, has taken some responsibility for enforcing the law as it applies to trucks. AWI submitted FOIA requests to APHIS in 2009, 2011, 2014, and annually since 2018 to determine the USDA's role in enforcement of the law. AWI did not receive its first set of records from APHIS until 2015. The records show 18 APHIS Investigative and Enforcement Services (IES) inquiries (discussed in detail below) into possible violations of the law over a 17-year period from 2006 to 2023. Through online research, AWI found another 2006 IES investigation.[35] Additionally, records of humane handling inspections by FSIS personnel at a processing plant in Idaho indicate that an inspector had referred a possible violation of the Twenty-Eight Hour Law to IES. When AWI requested records related to the incident, APHIS responded that the investigation was pending, bringing the total number of investigations to 20. In at least 12 of the 19 completed investigations, IES found evidence of animals being transported for longer than 28 hours. However, records indicate that IES has only referred one of these potential violations to the DOJ. AWI submitted FOIA requests to the DOJ for information relating to this referral and any other enforcement of the Twenty-Eight Hour Law between 2015 and 2022. The ENRD's response contained no records relating to the referral or indicating any case having been brought. The minimal and heavily redacted records that were received indicate that the ENRD has at least internally discussed the law and met with APHIS officials. However, a search of federal district court dockets for mention of the law during this period returned no results.

IES investigations have been initiated as a result of two USDA procedures. APHIS Veterinary Services (VS) and the FSIS each have protocols—albeit weak ones—for detecting violations of the Twenty-Eight Hour Law. Both USDA agencies report potential violations of the law to IES for further investigation. According to AWI's analysis of USDA, DOJ, and DOT involvement, these VS and FSIS procedures are the only official mechanisms by which the federal government currently identifies violations of the Twenty-Eight Hour Law. The records suggest that the only other means of prompting IES to initiate an investigation (for animals other than horses) are if there is an emergency (e.g., a large number of animals are reported to have died during transport, or transport vehicles are stuck in bad weather), or if animal protection organizations provide evidence of violations. The following subsections will review the FSIS and VS reporting procedures.

THE FSIS REPORTING SYSTEM FOR POTENTIAL VIOLATIONS OF THE TWENTY-EIGHT HOUR LAW

The FSIS maintains inspection personnel at federally inspected slaughter establishments across the country. In 2010, the agency issued a notice to inspectors informing them of the Twenty-Eight Hour Law and advising them to contact APHIS if they suspect a violation.[36] The FSIS incorporated this notice into the 2011 update to Directive 6900.2, Humane Handling and Slaughter of Livestock. The directive states that if animals arrive at a slaughter establishment looking exhausted or dehydrated, then FSIS personnel are to ask the establishment manager if the truck driver stopped in compliance with the Twenty-Eight Hour Law. If the manager or truck driver is uncooperative, or the FSIS personnel believe the animals' exhaustion or dehydration is due to transport in excess of 28 hours, the FSIS

personnel are to contact APHIS.[37] According to records, FSIS plant inspectors have reported potential violations of the law to APHIS only five times since 2010, and only two of those were due to the plant inspector noticing exhausted or dehydrated animals.[38]

VETERINARY SERVICES IMPORT AND EXPORT PROTOCOLS

Animals are frequently shipped in trucks into and out of the United States from Canada and Mexico. Import and export protocols for these shipments vary according to the species, destination, and intended use of the animal (e.g., for breeding or for immediate slaughter). Most shipments are not monitored for compliance with the Twenty-Eight Hour Law, and import and export protocols for most animals do not address the Twenty-Eight Hour Law.[39]

VS often requires seals for international truck shipments—including all animals imported for immediate slaughter.[40] This provides USDA personnel with direct evidence of whether the animals were unloaded, as a seal (typically a metal zip tie) needs to be broken for unloading to occur. When exported from the United States to Mexico, shipments of breeding sheep and goats are sealed, and the seal number recorded on a health certificate.[41] The health certificate also requires that the shipper provide the place of origin and the point of embarkation.[42] The certificate does not require detailed information on the route, rest stops, or even the exact date the trip is to commence.[43] Shipments of pigs and cattle bound for immediate slaughter and sheep and goats bound for immediate slaughter or feed yards are sealed when exported from Canada to the United States.[44] VS protocol instructs drivers to go directly to the slaughter establishment or other final destination within the United States. It does not make an exception for the Twenty-Eight Hour Law.[45]

However, VS has published protocols for compliance with the Twenty-Eight Hour Law for certain shipments bound for other countries (most often Mexico). Transport containers are sealed when cattle are transported from the United States to Mexico and when pigs and all ruminants (including cattle) are brought into the United States from Canada as a thoroughfare to Mexico.[46] For these shipments, the seals are not to be broken until the animals arrive at the border, unless the driver is required to stop under the Twenty-Eight Hour Law.[47] Drivers who stop must do so at a USDA-approved "feed, water, and rest" station.

Currently, there are five approved stations in the United States.[48] At the station, a USDA-accredited veterinarian will break the seal to unload the animals. When the rest stop is over and the animals are reloaded, the veterinarian will reseal the truck with new seal numbers.[49] Information regarding the broken seal must be recorded on an "addendum for rest stops," which will be presented to VS-authorized personnel upon arrival at the border.[50] For shipments of animals originating outside the United States and passing through one or more US ports on their way to another country (typically from Canada to Mexico), shippers are also required to obtain an "import or transit permit." The application must include the truck's route, number of drivers, estimated travel time, and a contingency plan (which requires the importer's "confirmation of a plan to provide water for the animals during transit stops, should it be needed based on conditions and species").[51]

SUMMARY OF IES INVESTIGATIONS

TX-06284-VS: In June 2006, several companies shipped 2,644 pigs owned by Pig Improvement Company from Greenville and Somerset, Ohio, to Querétaro, Mexico, with a stop in Brownsville, Texas, before crossing the border. In Texas, USDA personnel discovered 152 dead animals on the trucks. An investigation ensued. The investigation showed crowded conditions, which prohibited most of the animals from accessing water. Some trucks did not provide water at all, and 10 of 11 trucks did not feed the animals. The investigator concluded that several of the companies had violated the law. However, in a letter to the USDA's Office of General Counsel, IES indicated that it did not believe it had the authority to enforce the Twenty-Eight Hour Law and asked, therefore, that the violations be submitted to the DOT. According to the FOIA records, the USDA never reported the case to the DOT (or the DOJ).

CA-08470-VS: In December 2007, animal advocacy organizations requested an investigation into Pacific Livestock Company for potential violations of the Twenty-Eight Hour Law. The organizations submitted video evidence to support allegations that the company shipped animals from Alberta, Canada, to Vacaville, California, in journeys lasting longer than 28 hours without providing feed, water, or rest to the animals. Additionally, the organizations alleged that Pacific Livestock unloaded animals from their trailers directly into transport containers, where they spent hours before being shipped to Oakland, California, and then across the ocean to Hawaii. IES commenced an investigation into the incident. One Pacific Livestock employee interviewed by IES stated that shipments from Canada had not come into Vacaville for approximately two years. Interviewees also claimed that pigs were unloaded from trailers into pens, where they had time to eat, drink, and rest before being put into shipment containers. Notwithstanding the submitted evidence, IES concluded after these interviews that there was insufficient evidence of a Twenty-Eight Hour Law violation.

WI-10009-VS: In March 2009, cattle loaded in Canada and shipped into the United States were left on a truck for longer than 28 hours. FOIA records provided little detail for this case, but according to the records, Loerzel Farm Transport, a Canadian shipping company, exported animals into the United States for immediate slaughter at a Wisconsin slaughter facility. A veterinarian (presumably at the slaughterhouse) requested an IES investigation of the potential violation of the Twenty-Eight Hour Law. IES determined that a violation occurred but closed the investigation because it said it could not find a US business entity for Loerzel Farm Transport.

CA-10421-VS: In 2010, a transport company shipped 33 cattle from Fordyce, Nebraska, to a slaughter establishment in Pico Rivera, California. According to on-site FSIS personnel, the animals looked dehydrated and lethargic upon arrival. When questioned at the establishment, the truck driver stated that he did not unload and rest the animals before arriving at the establishment. FSIS personnel contacted APHIS, which initiated an investigation into the matter. The transport company told APHIS that all drivers using this route are told to stop at a livestock market in Utah and unload the animals. However, the market does not keep a record of who stops and unloads animals. During the investigation, IES was unable to locate the driver of the truck for an interview. Therefore, IES found insufficient evidence for further action and closed the case.

IL-11039-VS: In February 2011, a truck driver transported 134 pigs from South Dakota to a slaughter establishment in Marengo, Illinois. During unloading, an FSIS supervisory public

health veterinarian (SPHV) observed three "dead on arrival" sows, three crippled sows, and one sow who died after being unloaded into lairage. Additionally, some of the sows appeared thirsty, and there was no indication that the animals received water or food during transport. The truck driver stated that a majority of the animals were not unloaded until they arrived at the Illinois slaughter establishment, which took about 35 hours. However, documentation suggested that the trip lasted less than 28 hours. The SPHV reported this information to the FSIS Chicago District Office, and the office forwarded this information to APHIS. An investigation by IES concluded that the agency could not definitively show that the driver violated the Twenty-Eight Hour Law.

NM-11032-VS: In May 2011, two trucking companies shipped 78 cows from New Holland, Pennsylvania, to Santa Teresa, New Mexico, en route to Mexico. Before the trucks departed New Holland, they were sealed by APHIS personnel, as required for cattle being shipped to Mexico. Upon the trucks' arrival in Santa Teresa, APHIS personnel confirmed that the seals had not been cut. The journey from New Holland to Santa Teresa took approximately 32–40 hours (2,000 miles) for the first truck, and 38–40 hours for the second truck (2,100 miles). An APHIS veterinarian subsequently requested that IES investigate these apparent violations of the Twenty-Eight Hour Law. The drivers admitted to knowing about the law but stated that they did not have a good place to feed, water, and rest the animals along the route.[52] After the investigation, which clearly showed that the trip violated the law, IES gave both companies an official warning. In the warning, IES threatened the companies with civil penalties of up to $650 for each violation.[53] The agency did this even though, in email communication, APHIS personnel stated that they do not have civil penalty authority.

OH-081160-VS: In January 2008, the nonprofit organization Animals' Angels prompted an IES investigation after documenting the transport of 48 horses bound for slaughter in Mexico. Animals' Angels followed the trailer for 34 hours from a livestock auction in Ohio to the border in Texas. The IES investigation confirmed the violation of the Twenty-Eight Hour Law as well as other regulatory violations. In its report, IES noted that the owner of the auction facility and trucking company had an existing judgment against them for 30+ violations of the Commercial Transport of Equine for Slaughter Act. IES sent a letter to the USDA's Office of General Counsel requesting that it assess a civil penalty against the transporter for violations of equine transport regulations and refer the Twenty-Eight Hour Law violation to the DOJ for enforcement. FOIA requests to the DOJ returned no information relating to this case.

CA-120228-VS: In November 2011, IES received a complaint from a California humane society on behalf of two horses' owners who had contracted a hauler to transport them from Colorado to California. Upon the horses' arrival in California, the owners learned that they had not been unloaded at any point during the 80-hour trip. One of the horses had a severe compression injury from the journey that required long-term veterinary care. According to an email communication, IES closed the investigation as "denied/declined" because "IES cannot pursue violations of the 28 hour rule." This email suggests that, at the time, IES misunderstood its authority to report violations to the DOJ.

ID-150002-VS: In February 2015, a trucker from West Coast Livestock Express contacted a Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) employee to determine whether there was a rest stop for livestock transporters en route from Wisconsin to Idaho or California equipped to unload and feed 200+ week-old dairy calves. The WDATCP employee referred the matter to APHIS officials, who then referred the case to IES to investigate whether the transporter had violated the Twenty-Eight Hour Law. The investigation of the company's daily logs showed shipments of calves from Bonduel, Wisconsin, to Jerome, Idaho. None of these logs included trips that exceeded 28 hours, and online mapping services showed the trip was only 25 hours. APHIS determined that the evidence did not support a violation of the law.

MI-150030-VS: In 2015, Mihm Transportation Company was investigated by IES for repeated violations of the Twenty-Eight Hour Law while transporting cattle back and forth between St. Louis, Michigan, and Bliss, Jerome, and Malta, Idaho. The investigation found 23 shipments where driver logs indicated drive time exceeded 28 hours. In four instances, animals were given food, water, and rest, but not before exceeding 28 hours of continuous transport. AWI's review of the driver logs indicates that in most cases, driver teams were used for these trips. Two violations occurred in one Idaho to Michigan trip involving a solo driver. In trips involving driver teams, one violation occurred per trip. In most cases, the violations involved continuous journeys lasting 2–3 hours longer than allowed under the Twenty-Eight Hour Law. A solo driver on one trip, however, did not offload the animals for over 48 hours. In an even more troubling instance, a driver team stopped for 35 hours without unloading the animals, leaving cattle on the truck for 74 continuous hours. Rather than refer the case to the DOJ for enforcement, APHIS issued an official warning and notice of alleged violation to the carrier and threatened civil penalties of "up to $60,000 or other sanctions for each alleged violation described" in its warning letter. The letter stated, "Although we have authority to pursue penalties for this type of alleged violation(s), we have decided not to pursue penalties in this instance so long as you comply, in the future, with

the 28 Hour Law and regulations." This statement directly conflicts with the position communicated by the agency in the CA-120228-VS case above, in which IES indicated it did not have such authority.

MI-150052-VS: APHIS began an investigation into a shipment when a port veterinarian notified her supervisor that a load of imported cattle bound for slaughter was held for an extended period after release from the port. On September 23, 2015, a truck driver entered the United States from Canada transporting 38 cattle. The carrier was inspected, sealed, and released at the animal inspection station in Michigan. Shortly after leaving the inspection station, the truck was stopped for speeding, escorted to a truck stop in Smith's Creek, Michigan, and placed out of service. During detention, documents obtained from the Department of Homeland Security's Customs and Border Protection agency indicated that the driver did not have authority to operate within the United States. Because the driver was detained, the animals were not offloaded until September 25, after at least 46 hours of continuous confinement. There was substantiated evidence, according to the IES investigation, that the carrier violated the Twenty-Eight Hour Law. The investigation report also indicated that Canada's Health of Animals Regulations might have been violated. The records received by AWI do not indicate whether the USDA issued an official warning to the carrier or whether the case was referred to the DOJ for enforcement.

WI-150005-VS: On January 12, 2017, APHIS issued an official warning against West Coast Livestock Express for failure to comply with the Twenty-Eight Hour Law during repeated trips carrying calves from Bonduel, Wisconsin, to Jerome, Idaho, and Tulare, California. The Wisconsin state veterinarian requested an investigation after identifying interstate certificates of veterinary inspection (ICVIs) for these movements. The driver logs demonstrate that at least 16 individual violations of the law occurred during these trips from August 2014 to October 2015. The

longest recorded time on the truck was 56.5 hours. Despite extensive evidence of Twenty-Eight Hour Law violations, APHIS only issued an official warning and notice of alleged violation to the carrier, and threatened civil penalties of "up to $5,000, or other sanctions for each alleged violation described" in its warning letter—rather than referring the incident to the DOJ. The initial investigation report stated that the DOJ "has recently reviewed anthr [sic] investigation and determined there is no criminal violation" and that the department "is currently reviewing the case for civil violation enforcement." AWI has not yet received files from the DOJ relating to this review. The official warning document AWI received contains no information regarding the DOJ's findings. The USDA ultimately concluded (as it did in the MI-150030-VS case above), "Although we have authority to pursue penalties for this type of alleged violation(s), we have decided not to pursue penalties in this instance so long as you comply, in the future, with the 28 Hour Law and regulations."

ID-200013-VS: In June 2020, the APHIS area veterinarian in charge (AVIC) requested an IES investigation after an FSIS inspector discovered that a shipment of pigs from Iowa to an Idaho slaughterhouse had been in transit longer than 28 hours. The FSIS inspector examined the load's freight bills and determined that the animals were loaded on June 1 and arrived at the plant on June 3. According to the records, IES did not initiate an investigation until nearly two years after receiving the AVIC's request. At that point, the owners and shippers of the animals had no records or recollection of that particular shipment, and IES closed the case due to insufficient evidence.

NE-210001-VS: On October 2, 2020, APHIS began an investigation into the transport of cattle traveling from Burbank, Washington, to Lexington, Nebraska. The truck had been loaded at 7:00 AM (PT) on September 30 but did not reach its final destination until 9:44 PM (CT) on October 1. The truck faced mechanical difficulties in Cheyenne, Wyoming, and had been stopped by state police in North Platte, Nebraska, for vehicle violations, both of which caused several hours delay. When the purchaser of the cattle realized they had been en route for over 28 hours, the truck driver was instructed to offload them near Lexington, Nebraska, at a sale barn at 4:00 PM (CT) on October 1. The cattle did not receive water, food, or rest beforehand, despite being in continuous confinement for at least 31 hours. On January 19, 2022, APHIS issued an official warning letter and notice of violation to the carrier and warned of penalties of up to $300,000. Despite the violations and threat of serious penalties, however, APHIS declined to pursue the penalties "as long as you comply, in the future, with the 28 Hour Law and regulations."

CO-210001-VS: In January 2021, an FSIS inspector at a Colorado slaughterhouse alerted the APHIS AVIC that two truckloads of bison imported from Saskatchewan had been confined to the trailers for over 28 hours. A miscommunication had resulted in the Canadian company transporting the bison a day early, meaning the slaughter plant's holding corrals were already full. The AVIC arranged with a local feedlot owner to secure a place for the bison to unload until the processor could take them. The AVIC reported the incident to IES, which waited a year and a half to initiate an investigation. Although the seals placed on the truck at the border confirmed that the bison had not been unloaded for at least 31–34 hours, IES concluded, "Due to the drivers of the trucks and trailers that transported the Bison from Canada to Colorado being located in Canada, they were not interviewed regarding the transportation of the Bison. There is no way to determine if the Bison were provided rest, feed, and water along the route and there is insufficient evidence to prove that a violation of the 28-hour law occurred."

PA-210022-VS: On May 26, 2021, APHIS opened an investigation into an injured horse discovered in a horse trailer being hauled from Wellington, Florida, to Pine Plains, New York. State police conducting a commercial vehicle inspection stopped the driver at a Pennsylvania gas station en route to deliver four horses to polo teams in New York. When officers inspected the horse trailer, one of the four horses had fallen onto her side and was injured. After exiting the trailer, she was unable to stand and collapsed onto the pavement in the parking lot. The on-site veterinarian believed that the horse was suffering from dehydration and a lack of nourishment during her journey. The driver had previously stopped in Dunn, North Carolina, where the horses were unloaded onto a local farm and provided with fresh water and hay. Despite extensive photographs of the horse's injury and the inability of the investigators to confirm the driver's time log, the driver was not cited. Because the total journey from Wellington, Florida, to Pine Plains, New York, did not exceed 28 hours, even with a rest stop in North Carolina, APHIS determined there were no violations of the law.

MN-220021-VS: In February 2022, a Canadian Food Inspection Agency (CFIA) veterinarian alerted an FSIS inspector that three cows who had been approved for importation and slaughter at a Minnesota plant had been discovered in the back of an otherwise empty trailer crossing back into Canada. The subsequent IES investigation concluded that the plant had mistakenly failed to unload these cows, and the driver had returned to the Canadian border—meaning the cows had spent at least five days confined to the trailer. An email exchange showed that IES closed the investigation, and any further inquiry "would be better suited for our Canadian counterparts" to determine if any Canadian laws had been violated. The email suggests that a referral for investigation was sent to the CFIA.

MO-230050-VS: In December 2022, the APHIS AVIC initiated an IES investigation after learning of a horse euthanized shortly after being transported from Alaska to Missouri. The horse had been unloaded by the first transporter to rest at a ranch in Montana after the Canadian leg of the journey and was picked up by a second transporter for the remainder of the journey to Missouri. The owners of the horse alleged that the second transporter had failed to unload the horse for food, water, and rest between Montana and Missouri—leading to the animal's deterioration. The transporter indicated in interviews that she had unloaded the horse at her own residence in Wyoming overnight before continuing on to Missouri. IES closed the investigation for insufficient evidence.

NE-230004-VS: In December 2022, an APHIS veterinarian at a northern border port was informed that four loads of bison transported from Canada to Colorado for slaughter had been stuck in a winter storm in South Dakota. Three of the trucks eventually made it to the processor in Colorado, and the fourth was towed to Nebraska, where the animals were unloaded. Among the four loads, five bison died. The veterinarian requested an IES investigation because "the weather forecast was predicted in advance that road conditions would make travel difficult, dangerous or even impossible. Especially given the loads were live animals, importers should pay more attention to conditions and humane transport of animals." Emails indicate that the same trucking company had experienced a similar stranding incident a few weeks prior. The IES investigation determined that the Twenty-Eight Hour Law had been violated; however, because the two transport companies involved in the case were Canadian, IES concluded that they could not be held liable.

The Current Regulatory Framework is Insufficient to Properly Enforce the Twenty-Eight Hour Law •

The Twenty-Eight Hour Law is one of only two federal laws with the express purpose of making the animal agriculture system more humane. While the law does not provide specifications for several animal welfare indicators such as space per animal, bedding, and fitness to travel, it does require basic care of animals in terms of food, water, and rest. The law also aims to add a layer of safety to our food supply by ensuring healthy animals arrive at slaughter establishments, livestock markets, and other industry facilities. Therefore, it is important that the industry comply with the law and that the government vigorously enforce it.

The protocols in place to help enforce the law are inadequate. The following analysis will focus on four main problems with the current framework:

1. Large numbers of animal shipments are not monitored.
2. Monitoring techniques are insufficient to detect violations of the law.
3. Enforcement is applied inconsistently—and does not result in penalties.
4. APHIS's investigatory and evidentiary tools are inadequate.

LARGE NUMBERS OF ANIMAL SHIPMENTS ARE NOT MONITORED FOR VIOLATIONS OF THE TWENTY-EIGHT HOUR LAW

The current Twenty-Eight Hour Law enforcement strategy only applies to animals being transported interstate to slaughter and some animals transported across the national border. However, millions of animals are shipped interstate each year for purposes other than slaughter. Calves are shipped between states to feeding or breeding facilities, and pigs are moved from farrowing to grow-out facilities. Farmed animals are also frequently shipped across state lines to auctions and markets. Currently, not a single shipment of animals to these places appears to be monitored for violations of the Twenty-Eight Hour Law. In 2023, 64 million pigs and 21 million cattle traveled interstate as "inshipments"—transported for feeding or breeding purposes rather than immediate slaughter.[54] These numbers would correspond to approximately 34 percent of all pigs and 40 percent of all cattle sold in the United States that year.

While the number of animals being shipped on journeys lasting over 28 hours is unknown, such journeys are likely a common practice. The last time the USDA published a comprehensive survey on interstate livestock transport in the United States was in 2003 (based on data from 2001).[55] An AWI analysis of state certificates of veterinary inspection (CVIs) from that report indicates that in 2001, approximately 11 percent of cattle, pigs, and sheep transported for feeding and breeding purposes were shipped more than 28 hours. An equivalent percentage in 2003 would have amounted to about 5.5 million animals.[56] An equivalent percentage in 2023 would involve 9.3 million cattle and pigs (inshipments of sheep are no longer reported by the USDA). These numbers, though, refer only to feeding and breeding inshipments. Then and now, the total number of animals shipped more than 28 hours is almost certainly much higher given the fact that millions more animals are shipped each year to slaughter establishments or across the national border.

If APHIS were to monitor all shipments, additional investigations into violations of the Twenty-Eight Hour Law would likely be warranted. For example, AWI analysis of state CVIs from recent years, received in response to public records requests, reveals a significant number of journeys that may have violated the law. Given federal regulations that limit the amount of continuous time a commercial hauler can drive,[57] journeys that require more than 18 hours minimum drive time, unless completed by a team of two drivers, likely extend beyond 28 hours.

AWI requested CVIs for all cattle leaving Florida in 2023. Analysis of the 3,574 certificates received in response identified 173 shipments, carrying more than 30,000 animals, that may have violated the Twenty-Eight Hour Law. This is remarkable given that Florida is not a major agricultural state and the analysis covered only one species. In addition, the transport of animals for immediate slaughter was excluded, which likely resulted in a significant underestimate of the total number of long-distance cattle shipments.

AWI also analyzed over 6,000 CVIs for dairy calves under 1 month of age imported to New Mexico and California, and exported from California, Wisconsin, Idaho, New York, Michigan, and Minnesota in 2022. These records reveal that 122,765 calves, potentially, were transported in violation of the Twenty-Eight Hour Law, with one producer's year-round shipments involving minimum drive times of at least 30+ hours. This number is also remarkable, given that it is based on records from only six states relating to the narrow category of calves under 1 month of age.[58]

Further illustrating an apparent lack of monitoring, several investigations over the years by animal advocates have documented violations. Most recently, in August 2021, investigators from Animal Outlook tracked a truck hauling pigs for over 32 hours through the Midwest. At no point during this period did investigators witness the driver unload or provide water or feed to the pigs confined in the trailer—despite the fact that, during a 10-hour stop in Wyoming, temperatures reached 91 degrees Fahrenheit.[59]

Trade association guidelines also suggest that shipping animals without rest for longer than 28 hours is a common practice, and one that is not monitored. The American Sheep Industry Association's *Sheep Care Guidelines* states that rest stops should be given if long hauls of 48 hours or more are expected.[60] The guide does not mention the Twenty-Eight Hour Law, or the fact that in most circumstances, transporting sheep for 48 hours without rest stops would violate the law. The National Beef Quality Assurance program's *BQA Transportation Manual* also does not discuss the Twenty-Eight Hour Law. Instead, the guide reminds transporters to "minimize time in transit by limiting stops."[61]

Although the BQA manual does not mention the Twenty-Eight Hour Law, National Beef Quality Audits (conducted approximately every five years) do evaluate the condition of animals arriving at beef slaughter plants. The audits sample 10 percent of trucks during one day's production at a limited number of plants. In 2016, for the 18 plants audited, the average transit duration for market cows and bulls on surveyed loads was 6.7 hours, across 283 miles. Many trips far exceeded 28 hours, however; the longest observed was 39.5 hours, across 1,413 miles.[62] In 2022, for the

22 plants audited, the average transit time was 6.3 hours, across 304 miles, with a maximum recorded journey of 24 hours across 1,099 miles.[63]

MONITORING TECHNIQUES ARE INSUFFICIENT TO DETECT TWENTY-EIGHT HOUR LAW VIOLATIONS

Food Safety and Inspection Service Directive 6900.2: As discussed above, FSIS Directive 6900.2 explains how personnel at slaughter establishments should monitor for violations of the Twenty-Eight Hour Law. The directive instructs FSIS personnel to inquire about violations of the law if animals "appear dehydrated or exhausted" upon arrival at the slaughter establishment.[64] This subjective system has been in place for 10 years; in that time, the FSIS detected three possible violations of the law (CA-10421-VS and IL-11039-VS, described above, as well as the pending investigation AWI discovered via FSIS inspection records).[65]

The potential violations in CA-10421-VS, IL-11039-VS, and the pending investigation were only discovered because, in each case, a veterinarian in a supervisory position saw the animals when the truck driver unloaded them. FSIS personnel are not required to inspect animals when they arrive at the slaughter establishment unless they are performing the "truck unloading" task of the Humane Activities Tracking System (HATS) verifications. HATS verifications generally occur once per shift; however, during each shift, inspectors are required only to perform the "ante-mortem" verification plus one other of the nine HATS tasks.[66] Thus, inspectors may only perform the truck unloading task once every several shifts. Further, there is no minimum time that inspection program personnel must spend on each HATS activity. Therefore, it is likely that FSIS personnel spend relatively little time inspecting the condition of animals as they are offloaded from trucks.[67]

In line with the 2010 notice issued by the agency, FSIS inspectors reported the violations investigated in NE-20001-VS, CO-210001-VS, and ID-200013-VS—although records indicate that the violations were not brought to their attention during HATS inspection. In NE-20001-VS, the FSIS inspector informed the AVIC that a truck scheduled to arrive at 7:00 AM arrived over 14 hours late. In CO-210001-VS and ID-200013-VS, the FSIS inspector was alerted by chance—having either overheard or been told by truck drivers that the animals had been confined in excess of 28 hours. Additionally, while inspection is required for all animals to be slaughtered, FSIS personnel usually perform these duties after the animals have been offloaded and put into pens. Once animals are placed into these pens, the law requires that they be given water immediately, and food if kept more than 24 hours, thus making it harder to determine if violations of the Twenty-Eight Hour Law have occurred.[68]

Veterinary Services Import and Export Protocols: Compliance with the Twenty-Eight Hour Law is particularly important for the health and welfare of animals shipped internationally, because animals may experience long wait times at the national borders or travel extensively before or after crossing the borders. These animals are not shipped in large numbers—in 2024, the United States sent 57,633 pigs, sheep, and goats to Mexico[69]—but those shipped are likely confined in containers for long periods and are therefore at a higher risk for a variety of stressors, which can lead to increased susceptibility to disease and improper handling.[70]

Import and export protocols for pigs and ruminants other than cattle are minimal. Often, the protocol requires shipments of these animals to be sealed, but VS gives no indication that it monitors them for compliance with the Twenty-Eight Hour Law. Worse, for animals imported into the United States from Canada for slaughter, VS

protocol instructs drivers to take animals directly to their destination, ignoring the Twenty-Eight Hour Law altogether.[71] Because instructions are not in place to monitor for violations of the law for these shipments, and VS protocol may conflict with the law in some instances, it is likely that violations go unmonitored even when enough information is provided through health certificates and seal numbers to determine whether a driver violated the law.

On the other hand, import and export procedures provide instruction for how to comply with the Twenty-Eight Hour Law when cattle are shipped to Mexico. Fortunately, APHIS investigations of cattle shipments conducted at border export facilities can obtain definitive proof of Twenty-Eight Hour Law violations. As described above, current seal and rest stop addendum procedures provide APHIS with sufficient evidence to indicate whether a driver has stopped in compliance with the Twenty-Eight Hour Law. This is because animals are only able to leave a sealed container if the seal is broken. If APHIS can show that a driver spent more than 28 hours en route, the seal shows whether the driver unloaded the animals. In NM-11032-VS, APHIS was able to prove that a driver violated the law because the driver entered the export facility with the same seal on the container from when the trip commenced. A similar incident occurred with respect to MI-150052-VS, which involved an import from Canada that was sealed at the US border. Since the seal showed the date and time the shipment entered the United States, APHIS was able to prove the driver had violated the law.

Unfortunately, instances like these are rare, and depend entirely upon on-site personnel at export facilities taking an interest in a specific shipment of animals. In 2009, AWI submitted a FOIA request to APHIS asking for records related to all shipments of bovines transported from Canada to Mexico for a two-year period. APHIS sent records for 116 shipments. Mileage estimates for the routes provided indicated that 92 percent of these shipments would have taken over 28 hours to reach the Mexican border once they entered the United States. Yet, the records were void of rest stop addendums. As with these shipments, records indicate that the driver in NM-11032-VS did not have a rest stop addendum, but APHIS only commenced an investigation when an on-site veterinarian requested one after he witnessed dead animals on the truck.

In the last 15 years, there have only been four cases (TX-06284-VS, NM-11032-VS, MI-150052-VS, and NE-23004-VS) in which on-site officials have taken an interest in a particular shipment. Violations of the law may go unnoticed because drivers are often allowed to unload cattle at export facilities without being required to disclose hour or mileage information to APHIS. Thus, it appears that the only time a potential violation of the law is investigated is when someone questions the drivers' routes or when some emergency occurs, as in one case in which over 150 animals died during transport or immediately thereafter. Most recently, it was only the diligence of an APHIS AVIC at a northern border port that led to an investigation in NE-230004-VS. The veterinarian, who had not been the one to inspect the loads at the border originally, initiated the investigation after he was informed that multiple trucks carrying bison had become stuck in winter weather.

APHIS APPLIES ITS ENFORCEMENT AUTHORITY INCONSISTENTLY

In the few cases, revealed through FOIA records, where APHIS has detected violations of the Twenty-Eight Hour Law, it has applied its authority inconsistently. In a letter to AWI, APHIS stated that its primary obligation under the Twenty-Eight Hour Law is to report violations to the DOJ.[72] Even though the agency has uncovered violations of the law occurring on trucks, it appears it has formally reported only one violation to the DOJ. In fact,

in 12 cases where APHIS found a substantiated violation of the law, it came to several different conclusions regarding its authority.

In the first case described above (TX-06284-VS), APHIS suggested reporting the violation to the DOT because that is all it had the authority to do.[73] The DOT has no record of such a referral. In the 2008 case involving multiple violations of the law by a transporter hauling horses to slaughter in Mexico (OH-08116-VS), records include a letter from IES to the USDA's Office of General Counsel requesting that it refer those violations to the DOJ for enforcement. In a 2012 case involving a substantiated violation of the law by a transporter hauling two horses, emails indicate that the investigation was closed as "denied/ declined" because "IES cannot pursue violations of the 28 hour rule."

In four other cases, however, including one prior to the case described above (NM-11032-VS, MI-150030-VS, WI-150005-VS, and NE-210001-VS), IES provided the violator with an "official warning." The warnings stated that APHIS may "pursue civil action including penalties up to $650 for each violation described in the official warning." The warning letters further stated that APHIS generally pursues penalties for these types of violations but that it would not if the carrier complied in the future.[74]

How APHIS has treated violations by foreign entities highlights further inconsistency. Records show that, in a 2006 case involving a clear violation of the Twenty-Eight Hour Law by a Canadian company, APHIS issued an informal warning via a "letter of information."[75]

Four years later, APHIS determined the law had been violated by a Canadian transport company (WI-10009-VS), but agency personnel stated that they did not have the authority to bring any action against the company because of its status as a foreign entity. Email communication from an APHIS veterinarian to an IES area manager stated, "It appears that there is nothing we can do in this case, which is unfortunate. It is likely that the majority of 28-hour violations we will see will involve Canadian exporters, so we effectively have an animal welfare regulation that we will not be able to enforce in the majority of our cases. If that's true, then we are likely, over time, to have repeat offenders because they are effectively exempt from meeting our regulations due to the fact that they are a foreign entity."[76]

In four additional cases (MI-150005-VS, CO-210001-VS, MN-220021-VS, NE-230004-VS), APHIS declined to pursue enforcement of the law because the transporting company was Canadian. In one case, APHIS concluded that there was "insufficient evidence" despite clear evidence of a violation, stating, "Due to the drivers of the trucks and trailers … being located in Canada, they were not interviewed regarding the transportation of the Bison. There is no way to determine if the Bison were provided rest, feed, and water along the route and there is insufficient evidence to prove that a violation of the 28-hour law occurred." An email from IES personnel to the AVIC regarding this case states, "IES is not able to hold foreign entities liable, so we are asking the [sic] close the case as a Fact Finding."[77]

Based on a reading of the plain language of the statute and of the limited case law,[78] it is not applicable solely to domestic companies, and where the violators were foreign entities, APHIS should have reported the cases to the DOJ. Records received from the DOJ are so heavily redacted that it is unclear if the refusal to hold Canadian transporters responsible is based on consultation between the agency and the department.

Furthermore, foreign entities must otherwise comply with domestic laws when transporting

goods and animals within the United States.[79] According to a guideline prepared by the Department of Homeland Security with assistance from the FMCSA, foreign entities must comply with driver's log, alcohol, hours of service, identification, and inspection requirements.[80] The department does not refer to the Twenty-Eight Hour Law specifically, but this omission is likely due to a lack of familiarity with the law and should not be taken as an indication that foreign companies may ignore the law altogether. Additionally, given the explicit mention of the secretary of agriculture in the prior version of the law, and that the amendments to this version were not meant to be substantive (as discussed below), the clear intent is for the USDA to be able to report violations. In three of the cases described above, IES expressly stated that it found a violation—therefore, it should have reported it to the DOJ.

Despite at least nine investigations showing clear violations, APHIS has rarely taken action beyond issuing a warning, even when IES found repeated, substantiated violations of the law. It is unclear to AWI why only one of the cases was referred to the DOJ, even though violations seemed well documented.

FOIA records show that in the past, APHIS was uncertain as to how it should handle the Twenty-Eight Hour Law overall. Emails discovered through FOIA demonstrate that APHIS personnel were uncertain about their authority under the law.[81]

When the FSIS issued the 2010 notice of inspectors' responsibility under the Twenty-Eight Hour Law, APHIS personnel indicated they were unaware of how to handle such cases. One APHIS AVIC stated that the agency needed guidance on the issue. A 2009 email from the AVIC to a VS associate regional director posed the following questions regarding the Twenty-Eight Hour Law: "Does this only pertain to slaughter facilities? What about livestock markets? What about dealer facilities? The historic interpretation of this [law] say[s] [it] only pertains to railroad cars, so the vehicle really doesn't matter now?" FOIA records do not indicate any response to this inquiry. This email came about six years after the USDA's inter-agency memo explaining that Twenty-Eight Hour Law regulations apply to trucks.

Another APHIS AVIC emailed VS colleagues in 2009 stating that he believed the Twenty-Eight Hour Law was the responsibility of APHIS's Animal Care division. More recently, however, emails reveal that personnel are less confused about their ability to open IES investigations. For example, several files AWI received include commands to open investigations, with no questions about whether APHIS has jurisdiction to enforce the law. However, it appears that APHIS officials are hesitant to refer cases to the DOJ for enforcement or impose penalties on violators even when violations are substantiated.

APHIS INVESTIGATORY AND EVIDENTIARY TOOLS ARE INADEQUATE

IES has relied on various types of evidence to conclude that a violation has occurred. In TX-06284-VS, the driver's log, the trucks themselves, and a police report were used. According to the IES investigator, the driver's log demonstrated that in several shipments, the driver did not stop to provide animals with food or water. FOIA records did not provide all driver logs for the incident, but at least one clearly shows that a shipment of pigs traveled over 3,200 miles without stopping to unload and rest the animals. An affidavit from a port veterinarian explained that the trailers used to ship the animals were not equipped to water the animals during transport. The police report stated that a USDA animal health technician viewed the trucks in question and found them to be overcrowded; therefore, even if there was water, not all the animals would have been able to access it.[82]

The FOIA records for WI-10009-VS did not indicate the documentation that IES used to conclude that a violation had occurred. Records did contain the exhibit list used in the investigation, which included shipping records, a bill of lading, a "Non-Domestic Livestock Receiving Verification Log," and a VS certificate titled "Export of Cattle or Bison for Immediate Slaughter to the United States of America."

In NM-11032-VS, the investigator concluded that a violation had occurred because (1) the shipment container's seal was not broken, (2) the truck driver confessed that he did not stop, (3) an addendum for rest stops did not accompany the shipment, and (4) records indicated which day the animals left their point of departure. APHIS personnel told IES that the seal was not broken and that there was not a rest stop addendum. The IES investigator spoke with the driver during the investigation. According to the investigation report, the driver said that "he is familiar with the Twenty-Eight Hour Law but that he did not stop during the trip to provide rest, feed or water for the cattle because there are no rest stop facilities along the way for this."[83] An APHIS-accredited veterinarian had signed a "Certificate of Cleaning and Disinfecting" at the beginning of the journey and sealed the trailer on the same day.

In later cases, the evidence included driver logs, CVIs, invoices, and online mapping services. For example, in WI-50005-VS, the exhibits included driver logs for the dates of suspected violations, numerous ICVIs, invoices showing transactions between the shippers and purchasers of the calves, and a Google Maps inquiry showing the shortest routes from the point of departure to the destination.

The lack of standardized documentation for animal transport makes it difficult for APHIS to collect evidence and determine in a timely manner whether the Twenty-Eight Hour Law has been violated. For instance, it took APHIS 10 months to finish its investigation into CA-10421-VS even though the truck driver who transported the animals admitted at the outset to violating the Twenty-Eight Hour Law. During the investigation, APHIS conducted interviews, solicited and reviewed affidavits, and traveled to the offices of those involved. Yet, after all this, APHIS made the determination that there was insufficient evidence of a violation because there

was no proper documentation of the driver's actions during the trip.

In other instances, APHIS put time and resources into its investigations, yet the evidence needed to prove that a violation occurred did not exist or was not sufficient. In WI-10009-VS and WI-150005-VS, it took APHIS approximately two years to conduct an investigation into a possible violation of the law. In ID-20001-VS, the FSIS inspector confirmed the driver's admission that the pigs had been in transit for more than 28 hours by consulting the freight bill. Yet, IES failed to even initiate an investigation until two years later, by which time investigators could not verify that the documents provided by the plant were for that particular shipment, and the driver refused to sign an affidavit because the incident was too far in the past. Thus, IES closed the case "due to insufficient evidence since this incident occurred a long time ago." Additionally, as detailed above, the APHIS veterinarian, in the context of describing shipments of pigs from Iowa to California, stated that investigations were so far unsuccessful "due to the lack of accurate or complete information on the shipping documents."

Thus, even if a driver openly admits to the animals being confined to the truck for longer than 28 hours, or when violations are otherwise clear, as in ID-20001-VS, WI-150005-VS, and NM-11032-VS, it often takes APHIS months or years to finish the investigation, and they are hampered by the lack of adequate documentation.

AWI has also found evidence that not all potential Twenty-Eight Hour Law violations flagged by FSIS personnel are investigated. In July 2013, an FSIS inspector at a slaughter establishment in Tennessee generated a "memorandum of interview" reporting a possible violation. He observed that two truckloads of hogs from Canada had been unloaded, with one of the trucks holding 12 dead animals; another four hogs died that night. The inspector reported that the driver had traveled more than 28 hours since entering the United States from Canada and had not watered the animals during that time. This incident was not included in the FOIA records received by AWI, suggesting that no investigation took place.

Additionally, in APHIS's most recent records response, email communications from February 2022 detail several incidents of high mortality (up to 9.4%) due to a viral respiratory disease outbreak in pigs arriving at a slaughter plant in Fresno, California. One APHIS veterinarian mentioned the Twenty-Eight Hour Law, noting that the pigs originated in Iowa—a minimum 27-hour drive not accounting for traffic, stops, weather, etc. The veterinarian opined that the higher mortality was due, in addition to the length of the trip, to the pigs not being healthy to begin with, stating, "These plants in California generally receive underweight and damaged hogs sorted from lots destined for contract plants … plus they have a 27+ hour truck ride." In a later email, the veterinarian states, "We have contacted the trucking company in the past to determine the availability [of] truck drivers to make this journey in 28 hours or less … . The last time we inquired we were informed the trucks have 2 drivers and go nonstop except for fuel. We have also been informed of the existence of a rest station/buying station in Utah but havent [sic] been informed the pigs from Iowa even use this facility. The last couple of times we have investigation [sic] we didn't get anywhere do [sic] to the lack of accurate or complete information on the shipping documents."

The emails suggest that these are relatively regular shipments—indicating that there are likely many instances of these transports lasting over 28 hours. The records did not contain any IES investigations related to these shipments, and further discussion of the shipments and the Twenty-Eight Hour Law are redacted from the record.

The USDA Should Take Steps to Better Enforce the Twenty-Eight Hour Law •

While the previous section demonstrates how enforcement of the Twenty-Eight Hour Law has failed, it also illuminates ways to improve compliance with the law. There are two main reasons why the law is underenforced. First, the USDA does not appear to refer violations to the DOJ, despite instances of violations. Second, in most instances there is no specific documentation a driver is required to provide to APHIS that details the mileage, hours, and stops made on their trip—making it more difficult to prove violations.[84]

When Congress passed a revised Twenty-Eight Hour Law in 1906, it specified that the USDA had certain enforcement powers under the law and that the USDA would report violations of the law to the DOJ. When the law was repealed and reenacted in 1994, Congress specified that this was done "without substantive changes"; therefore, the USDA is still authorized to report violations of the law to the DOJ—and should continue to assume this responsibility.[85] Congressional reports also demonstrate that Congress intended for the USDA to have enforcement power over the law, given that it implemented the law at the USDA's request.[86]

The USDA has clearly demonstrated it has authority to help enforce the Twenty-Eight Hour Law. While it has not always done so to the best of its abilities, the department has played a prominent role in enforcing the law since its enactment. As discussed above, the Bureau of Animal Industry originally enforced the law against rail carriers. The USDA codified its Statement of Policy into regulations in 1963, when transport by rail was still common, and it eventually affirmed in 2003 that the law applied to trucks. Throughout, IES has investigated possible violations of the law, although this currently occurs very infrequently, and with only one case showing that APHIS referred a potential violation to the DOJ.

Recommendations for Improving Enforcement of the Twenty-Eight Hour Law •

Several steps should be taken to strengthen enforcement of the Twenty-Eight Hour Law, including the following:

1. The FSIS should adopt regulations or guidance, or amend its directives, to include an inspection task related to Twenty-Eight Hour Law compliance. As mentioned above, during each shift at federal slaughter plants, FSIS personnel verify humane handling procedures as part of HATS. However, inspectors must only complete the "truck unloading" task once every few shifts. Further, inspectors must inquire about Twenty-Eight Hour Law violations only when animals appear "exhausted or dehydrated." Instead, each time animals arrive at slaughter, they should be inspected during unloading, and inspectors should require evidence of compliance with the Twenty-Eight Hour Law. Such evidence should include a form documenting the number of hours animals spent in transit on their way to federally inspected slaughter establishments, which FSIS inspectors should review as part of the inspection task. This approach would cover animals transported for slaughter but not for other purposes.

2. The DOT should monitor compliance with the Twenty-Eight Hour Law—and alert the DOJ to any violations—as part of roadside inspections conducted by the Motor Carrier Safety Assistance Program (MCSAP). MCSAP inspectors already monitor compliance with numerous FMCSA regulations and hazardous material regulations. Inspectors conducted 3.27 million inspections in 2019,[87] and incorporating an additional compliance check would not appear burdensome. This approach would cover the transport of farmed animals for all purposes. At a minimum, the DOT should issue guidance alerting staff and transporters to the existence of the Twenty-Eight Hour Law and note that roadside inspection personnel, upon noticing a violation, should report it to IES.

3. Electronic logging devices (ELDs) offer a potential mechanism through which the DOT and/or the USDA could track compliance with the Twenty-Eight Hour Law. The FMCSA currently requires the use of ELDs for tracking commercial haulers' compliance with regulations that limit the number of hours a driver may drive and be on duty.[88] However, Congress has provided animal haulers a series of exemptions from the ELD mandate, including through appropriations legislation enacted annually since 2018 that has prohibited the DOT from using federal funds for enforcement of the ELD requirement against animal haulers.[89] Congress should not include this provision in future appropriations legislation. Once this barrier is removed, ELDs could be used by both the USDA (e.g., during inspections at slaughterhouses) and the DOT (e.g., during MCSAP roadside inspections) to confirm compliance with the law.

4. The DOJ should issue guidance that clarifies the procedure for notifying the department of a potential violation of the law. The guidance should describe, for example, who can notify the DOJ of a violation, how to do so, and what evidence would constitute sufficient documentation of a suspected violation. It should further clarify that foreign companies are required to comply with the law while operating within the United States.

5. VS should amend its import/export protocol to require compliance with the Twenty-Eight Hour Law and to inform foreign entities of their obligation to comply with the law. It should also develop a uniform system of monitoring domestic interstate transport for compliance with the law, whether through the use of seals, standardized documentation,

enhanced communication with other federal and state agencies, or other methods.

6. Congress should repeal the provision of the Twenty-Eight Hour law that authorizes animals to be confined for 36 consecutive hours when the owner or custodian of the animals being transported requests in writing that the 28-hour period be extended to 36 hours. Such an exception is so broad and unbounded that it essentially swallows the rule.

ACTION TAKEN BY AWI TO ENCOURAGE ENFORCEMENT OF THE TWENTY-EIGHT HOUR LAW

Despite the lack of enforcement, AWI and partner organizations work to keep both the public and government officials aware of Twenty-Eight Hour Law violations.

Following the investigation described above involving pigs transported for over 32 hours, AWI and Animal Outlook wrote to the DOJ to share the results of the investigation and remind the department of its obligation under the law to seek penalties for violations. The records received from the DOJ were too heavily redacted to determine whether the department investigated or brought an action.

In 2024, in collaboration with AWI, Representative Dina Titus (D-NV) introduced the Humane Transport of Farmed Animals Act (H.R. 8699), which would amend the Twenty-Eight Hour Law to require the DOT, in consultation with the USDA, to develop a mechanism for conducting investigations into potential violations of the statute—including through inspection of vehicles transporting animals and records related to such transport.

Conclusion •

Initially, when animals were transported long distances primarily on rail carriers, the USDA and the DOJ helped enforce the Twenty-Eight Hour Law. When the animal transport system modernized, with trains giving way to trucks, the departments lost sight of their respective roles under the law. This has led to insufficient enforcement of long-distance animal-transport requirements. The USDA, the DOJ, and the DOT must develop a consistent and effective approach to monitoring and enforcing the law and stop the constructive nullification of one of the very few statutes Congress has passed to protect farmed animal health and welfare.

References

1. The Twenty-Eight Hour Law, 49 U.S.C. § 80502 (2018). The Twenty-Eight Hour Law covers the transportation of cows, sheep, pigs, goats, and equines. In 1996, Congress amended the Humane Methods of Slaughter Act, giving the USDA further authority to regulate the transportation of equines to slaughter. Unlike the Twenty-Eight Hour Law, these regulations discuss floor space per animal and ways to prevent injuries, including separating stallions and otherwise aggressive animals. The USDA has the authority to assess civil penalties up to $5,000 per violation under these regulations. *See* 9 C.F.R. pt. 88 (2024).

2. Letter from Judy Harvey, Law & Policy Section Chief, Department of Justice, to Adrienne Craig, Farmed Animal Senior Policy Associate & Staff Attorney, AWI, in response to FOIA # 2024-06475 (Sep. 30, 2024) (on file with AWI).

3. 9 C.F.R. pt. 89 (2024).

4. U.S. Dep't of Agric. Veterinary Services Memorandum No. 591.50 (Oct. 3, 2003) (on file with AWI); *See also* AASV Staff, *USDA Concedes the 28-Hour Law Applies to Trucks*, American Association of Swine Veterinarians (Oct. 4, 2006, 12:00 AM), https://www.aasv.org/2006/10/usda-concedes-the-28-hour-law-applies-to-trucks [https://perma.cc/7WT3-L6B2].

5. Shortly prior to the release of this report, AWI discovered that APHIS had neglected to include records from nine additional investigations that occurred between 2013 and 2023 in previous FOIA responses. The FOIA request for the details of these investigations is still pending and this report will be updated to reflect that new information once it is received.

6. U.S. Dep't of Agric. FSIS, Memorandum of Interview #DOD2122015330G from the Humane Activity Tracking System inspection at Independent Meat Company (Jan. 30, 2021).

7. 49 U.S.C. § 80502; Vivian Chu, Cong. Research Serv., Brief Summaries of Federal Animal Protection Statutes 27 (2010), http://nationalaglawcenter.org/wp-content/uploads/assets/crs/94-731.pdf [https://perma.cc/DP9U-35BM].

8. 49 U.S.C. § 80502(d) (2012); see Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584 (2015) (amending the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461) and giving authority to the head of each agency responsible for the law in question to adjust civil penalties for inflation). For 2025, the Twenty-Eight Hour Law penalty appears to have been adjusted to a minimum of $201 and a maximum of $1,028. *See* 7 C.F.R. § 3.91(b)(2)(xiii).

9. The Supreme Court has interpreted "each offense" to refer to each group of animals that left the origin location at the same time. *See Baltimore & O.S.W.R. Co. v. United States*, 220 U.S. 94 (1911) ("The number of the penalties recoverable under [the law] … is not measured by the number of shipments on the same train, nor is the train the unit of offense, but where the same train contains live stock loaded at different periods, one penalty accrues when the period of lawful confinement for the cattle first loaded expires, and other separate and distinct penalties accrue as the time for the lawful confinement of the cattle loaded at later periods successively expires.").

10. 49 U.S.C. § 80502(d) (2012): "On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business."

11. *See* Chu, *supra* note 7, at 28.

12. 28 C.F.R. § 0.55(d) (2024).

13. 9 C.F.R. pt. 89, titled "Statement of Policy under the Twenty-Eight Hour Law."

14. *Id.* However, these time provisions may not comply with the Twenty-Eight Hour Law. The law specifies that animals should be unloaded for not less than five hours unless they have food, water, space, and an opportunity to rest in the vehicle. 49 U.S.C. § 80502(b).

15. VS Memorandum No. 591.50, *supra* note 4.

16. Humane Soc'y of the U.S. et al., Petition for Rulemaking to Extend the Twenty-Eight Hour Law to Trucks (Oct. 4, 2005) (on file with AWI).

17. Letter from W. Ron DeHaven, Administrator, to Peter A. Brandt, Esq., The Humane Soc'y of the U.S. (Sep. 22, 2006).

18. See, e.g., K.S. Schwartzkopf-Genswein et al., *Road Transport of Cattle, Swine, and Poultry in North America and Its Impact on Animal Welfare, Carcass and Meat Quality: A Review*, 92 Meat Sci. 222 (2012). Since 1963, when the USDA wrote its Statement of Policy, the scientific community has done considerable research on the impact of transport on the welfare of animals.

19. John F. Stover, American Railroads 195 (The University of Chicago Press, 2nd ed. 1997).

20. *Id.*

21. *Id.* at 196.

22. Harry Goding and A. Joseph Raub, USDA, Bulletin No. 589, the 28-Hour Law Regulating the Interstate Transportation of Live Stock: Its Purpose, Requirements, and Enforcement 17 (1918). Today, APHIS Veterinary Services performs similar tasks to those performed by the Bureau of Animal Industry in the first half of the 20th century.

23. *Id.*

24. Stover, *supra* note 19.

25. *U.S. v. Illinois Cent. R. Co.*, 303 U.S. 239 (1938).

26. Animal and Plant Health Inspection Service, *First Federal Law to Prevent Cruelty to Animals*, in Animals and Their Legal Rights (AWI, 4th ed. 1990).

27. *Id.*

28. *See* Humane Soc'y of the U.S. et al., *supra* note 16, at 10 (noting that the USDA had published guidance as late as 1997 specifically stating that the law did not apply to trucks).

29. H.R. 10026, 88th Cong. (1964).

30. Letter from Amanda Marchand Jones, FOIA Chief, Dep't of Justice Criminal Division, to Erin Sutherland, Staff Attorney, AWI (Feb. 5, 2020) (on file with AWI).

31. U.S. Dep't of Just., Justice Manual, § 5-10.120 (2018); *Statutes for Which the Wildlife and Marine Resources Section Has Responsibility*, ENRD, U.S. Dep't of Just. https://www.justice.gov/enrd/statutes-which-wildlife-and-marine-resources-section-has-responsibility-0 [https://perma.cc/XL62-K5RG]; *see also* Delcianna Winders & Varu Chilakamarri, *The Animal Welfare Act: Enforcement*, 25 Animal L. 249 (2018).

32. *Roadside Inspections Visualization Tool*, Fed. Motor Carrier Safety Admin. Dep't Of Transp., https://ai.fmcsa.dot.gov/EnforcementPrograms/Inspections/Visualization (Filter Year: "2023"; Vehicle type "All Trucks").

33. Letter from Gordon Johnson, FOIA Officer, to Michelle Pawliger, Farm Animal Policy Associate, AWI (Aug. 2, 2016) (on file with AWI).

34. Letter from Stanza M. Ludgood, Acting FOIA Officer, Federal Motor Carrier Safety Administration, to Michelle Pawliger, Farm Animal Policy Associate, AWI (Jun. 30, 2017) (on file with the AWI); Letter from Jennifer Weatherly, FOIA Officer, Federal Motor Carrier Safety Administration, to Erin Thompson, Farm Animal Program Staff Attorney, AWI (Mar. 27, 2019) (on file with AWI).

35. The APHIS FOIA office did not provide this case (CA-08470-VS) to AWI even though it fell within the parameters of AWI's requests. AWI knew of this case because individuals in the organization took part in efforts calling for an IES investigation. After discussing this with the APHIS FOIA office, APHIS reviewed the records again and did not find any other cases that would fit within AWI's request.

36. Emails between APHIS officials obtained from public records requests show that the initial notice was issued internally in late 2009 and made public in 2010.

37. FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock (USDA 2011), https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6900.2.pdf [https://perma.cc/H6E7-P37L].

38. In WI-10009-VS (discussed in detail below), a similar protocol was likely used, but the incident took place before the FSIS published its notice and directive.

39. *See, e.g.*, Veterinary Servs., Strategy & Policy Protocol for the Importation tf Cattle tr Bison from Canada to the United States (Dec. 2024), https://www.aphis.usda.gov/sites/default/files/ca-protocol-imp-cattle-bison.pdf [https://perma.cc/TY9A-97ZZ] (explaining that cattle shipped for slaughter from Canada must go directly to their final destination within the United States) [hereinafter USDA's Import Regulations for Bovine]; *see also*, Veterinary Servs., Protocol for the Importation of Swine From Canada (Sep. 2008), https://www.aphis.usda.gov/import_export/animals/downloads/import_canadaswine_intous.pdf [https://perma.cc/3H6F-MDEP] (explaining that pigs imported into the United States from Canada for slaughter must go directly to the slaughter establishment) [hereinafter Protocol for the Importation of Swine from Canada].

40. *Id*. (VS documents state that Canadian shippers may not ship sheep or goats through the United States to Mexico. Therefore, VS import/export webpages do not provide instructions for seals and health certificates regarding these ruminants).

41. U.S. Dep't of Agric., Veterinary Health Certificate for Export of Sheep and Goats for Breeding from the United States of America to Mexico, https://www.aphis.usda.gov/sites/default/files/mx-ov-caprine-breeding-hc.pdf [https://perma.cc/J8GD-CFCY] (accessed Jul. 20, 2025).

42. *Id.*

43. Certificates detailing the specific route for shipments are required for cattle and pigs sent for immediate slaughter from Canada, as well as pigs, sheep, and goats moved from Canada to Mexico through the United States. *See* USDA's Import Regulations for Bovine; USDA's Protocol for the Importation of Swine from Canada, *supra* note 39; Veterinary Servs., Strategy and Policy Protocol for the Transit of Swine, Sheep and Goats from Canada to Mexico by Land Through the United States (Feb. 2023), https://www.aphis.usda.gov/sites/default/files/swine-sheep-goats-from-canada-mexico-thru-usa.pdf [https://perma.cc/Q7WX-7LDJ] [hereinafter USDA's Import Regulations for Swine, Sheep, and Goats from Canada to Mexico].

44. USDA's Import Regulations for Bovine, supra note 39; Protocol for the Importation of Swine from Canada, *supra* note 39.

45. *Id.*

46. *See* USDA's Import Regulations for Swine, Sheep, and Goats from Canada to Mexico, *supra* note 43; *see also* Veterinary Servs., Questions and Answers Regarding Bovines in Transit from Canada to Mexico 1, https://www.aphis.usda.gov/import_export/downloads/q_a_transit_ca_mx.pdf [https://perma.cc/6UUP-MBNU] (accessed Jul. 20, 2025); APHIS, Guidelines to Export Breeding Cattle from the United States and Canada to Mexico (Apr. 2008), https://www.aphis.usda.gov/sites/default/files/mx_bred_ca.pdf [https://perma.cc/N8LL-JP5Y] [hereinafter APHIS Guidelines to Export Breeding Cattle from US to CAN and MEX].

47. *Id.*

48. *Feed, Water, and Rest Station*, APHIS, https://www.aphis.usda.gov/live-animal-import/cattle-bison-germplasm/canada/feed-water-rest-stations [https://perma.cc/8RQ5-MCJD] (accessed Jul. 20, 2025).

49. USDA's Import Regulations for Swine, Sheep, and Goats from Canada to Mexico, *supra* note 43; APHIS Guidelines to Export Breeding Cattle from US to CAN and MEX, *supra* note 46.

50. APHIS Guidelines to Export Breeding Cattle from US to CAN and MEX, *supra* note 46.

51. Veterinary Servs., VS Guidance 13404.2 (Dec. 2022); U.S. Dep't of Agric., Notice Regarding APHIS Live Animal Import and Third-Country Import Transit Permits (May 2023), https://www.aphis.usda.gov/sites/default/files/notice-live-animal-import-transit-permits.pdf [https://perma.cc/KY7V-FY55]. VS recommends but does not require that the contingency plan address loading densities and space requirements, environmental/weather protections, ventilation/air supply, feed supply, and management of animals that are sick, injured, or unable to continue travel.

52. One trucking company stated that there is not a good system in place for complying with the Twenty-Eight Hour Law because they have to seal the trucks and would need to rest in a place where the trucks could be resealed. The current protocol is to have an addendum for rest stops when transporting cattle from the United States to Mexico. The owner's statement indicates that this process is not used and that the Twenty-Eight Hour Law is not enforced, or that trucking companies are not aware of the process.

53. The official warning stated that the agency generally pursues penalties for Twenty-Eight Hour Law violations. However, the law directs the attorney general, not APHIS, to do so.

54. USDA, NASS, Meat Animal Production, Disposition, and Income 2023 Summary 8, 14, 15 (Apr. 2024), https://downloads.usda.library.cornell.edu/usda-esmis/files/02870v85d/ht24z715t/hm50wf330/meatan24.pdf [https://perma.cc/47SN-S7PJ].

55. D.A. Shields & K.H. Mathews, Jr., USDA Economic Research Service, Interstate Livestock Movements (Jun. 2003), https://ers.usda.gov/sites/default/files/_laserfiche/outlooks/37685/15376_ldpm10801_1_.pdf?v=66297 [https://perma.cc/DHQ3-N9HY].

56. *Id.* at 12 ("Animals in these States represented about two-thirds of the U.S. cattle inventory, 80 percent of the hog inventory, and half of the sheep inventory" [at the time of the research]).

57. 49 C.F.R. § 395 (2024).

58. *Long-Distance Transport of Young Dairy Calves*, Animal Welfare Institute, https://awionline.org/content/long-distance-transport-young-dairy-calves.

59. *Animal Transport: Torture Hidden in Plain Sight*, Animal Outlook https://animaloutlook.org/investigations/animal-transport-torture/ [https://perma.cc/HZ3B-JSBF].

60. Dr. Ruth Woiwode, Sheep Care Guide 12 (2017), https://www.americanwoolassurance.org/wp-content/uploads/sheep-care-guide.pdf [https://perma.cc/QCF2-CD6S].

61. Beef Quality Assurance (BQA) *Transportation Manual*, 9 (2020), https://www.bqa.org/Media/BQA/Docs/bqat-manual_02-10-2021-91.pdf [https://perma.cc/QX6C-F8DM].

62. National Cattlemen's Beef Association, 2016 National Beef Quality Audit, Market Cow and Bull Executive Summary 6 (2017), https://www.bqa.org/Media/BQA/Docs/nbqa-exec-summary_ cowbull_final.pdf [https://perma.cc/5574-VLVJ].

63. National Cattlemen's Beef Association, 2022 National Beef Quality Audit, Executive Summary 6 (2022), https://www.bqa.org/Media/BQA/Docs/nbqa-executive-summary-2022-updated_v1-compressed.pdf [https://perma.cc/9FXH-A66L].

64. FSIS Directive 6900.2, *supra* note 37.

65. It is likely that the veterinarian who reported WI-10009-VS (also described above) to IES followed a protocol in line with Directive 6900.2. However, the directive was not issued until a year after the veterinarian's investigation request, and WI-10009-VS is not counted here among the cases brought based on the directive.

66. FSIS Directive 6900.2, *supra* note 37.

67. *See also* USDA, FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock 6, 12 (2013), https://www.fsis.usda.gov/sites/default/files/import/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf [https://perma.cc/9RRX-4UY2] (explaining that FSIS personnel are to verify that the handling facilities are in proper repair during truck unloading).

68. 9 C.F.R. § 313.2 (2024).

69. *Standard Query*, Foreign Agricultural Service, https://apps.fas.usda.gov/gats/ExpressQuery1.aspx (Search Product Type: "exports," Product Group: "Sheep, lambs, & goats" and "swine," and Partner: "Mexico"). The total number of animals shipped from Canada through the United States to Mexico is not available. However, United States to Mexico summary reports provide numbers for cattle and pigs shipped from Canada to Mexico—84 and 4,730, respectively, in 2024. *See* USDA, AMS, US to Mexico Livestock Export Summary (Jan. 2, 2025), https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/3629/2024-12-23/1183122/ams_3629_00104.pdf [https://perma.cc/XV7D-RAXD].

70. X. Manteca, *Physiology and Disease*, in Long Distance Transport and Welfare of Farm Animals, (Michael C. Appleby et al. eds. 2008).

71. *See* USDA's Import Regulations for Bovine and Protocol for the Importation of Swine from Canada, *supra* note 39; FSIS Directive 9530.1 Rev. 2, Importation of Live Canadian Cattle, Sheep, and Goats into the United States (USDA 2021), https://www.fsis.usda.gov/sites/default/files/media_file/2021-06/9530.1.pdf [https://perma.cc/M9MP-4275].

72. Letter from Kevin Shea, Acting Administrator, APHIS, to Cathy Liss, President, AWI, (Apr. 7, 2009) (on file with AWI).

73. It is unclear from the records if APHIS sent the case to the DOT—the records only show APHIS's intention to submit the case to the DOT. The DOT could not locate any records associated with this case when AWI requested this information through FOIA.

74. The Twenty-Eight Hour Law violation is the only violation discussed in the letter of warning. It is possible, and perhaps likely, that the agency's insinuation that it frequently pursues penalties for violations of the law pertains to horses and violations of 9 C.F.R. Part 88.

75. FOIA records did not provide details of this case (TX-04252-VS). It is only referenced in the records as a past violation of the law.

76. Email between Michael Dutcher, DVM, AVIC, to William Reinburg, Area Manager, IES (Mar. 16, 2011) (provided in response to FOIA request #2012-APHIS-00570).

77. Email between Jason Rood, IES, to Dr. Donald Beckett, DVM, AVIC (Apr. 29, 2022) (provided in response to FOIA request #2023-APHIS-06591).

78. *Grand Trunk Ry. Co. v. United States*, 229 F. 116, 118-119 (7th Cir. 1915) (dismissing plaintiff's argument that the law was inapplicable because the shipment originated and ended in Canada, because 28 hours had elapsed while the animals were shipped through the United States; thus, "The construction contended for by plaintiff in error would enable a foreign shipper to transport stock from Windsor, Canada, to Mexico, through the States without resting, feeding, or otherwise watering the same, and thereby defeat the purpose of the statute.").

79. *See*, e.g., *USDOT Operations as a Canadian Carrier*, Alberta Motor Transport Association (Jun. 21, 2022) https://static1.squarespace.com/static/654bf846633e98035d697498/t/660e365f8218546a9ef1cff5/1712207457024/USDOT.pdf [https://perma.cc/95EV-4KXF] (explaining that Canadian drivers must abide by hours of service, alcohol restrictions, identification, and inspection laws).

80. U.S. Dep't of Homeland Sec., Guidelines for Compliance of Commercial Motor Vehicles and CMV Drivers Engaged in Cross-Border Traffic (2012), https://www.dhs.gov/xlibrary/assets/policy/dhs-cross-border-trucking-guidelines.pdf [https://perma.cc/2VLW-JLLF].

81. *See* section "APHIS Applies Its Enforcement Authority Inconsistently" above.

82. The investigation only discussed the violation of the feed and water requirements under the Twenty-Eight Hour Law regulations. It did not mention the "unloading animals to rest" requirement under the law. This is particularly troubling because the investigation showed that the animals were overcrowded, and therefore the exemption to the Twenty-Eight Hour Law would not have applied.

83. However, there is an official USDA feed, water, and rest station in Adair, Oklahoma, and according to Google Maps, this would have provided the driver a place to stop without adding more than an hour in driving time to the trip.

84. Note that in IL-11039-VS, the driver's log helped determine that a violation did not occur, and this case took the least amount of time for APHIS to conclude.

85. Chu, *supra* note 7.

86. *See* Humane Soc'y of the U.S. et al., *supra* note 16.

87. *Roadside Inspections Visualization Tool, supra* note 32.

88. 49 C.F.R. §395.

89. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Division L: Title I § 132, 132. Stat. 990 (2018); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, Division G: Title I § 131, 133 Stat. 412 (2019); Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, Division H: Title I § 131, 133 Stat. 2534, (2019); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division L: Title I § 132, 134 Stat. 1844, (2020); Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, Division L: Title I § 132, 136 Stat. 707 (2022); Consolidated Appropriations Act, 2023, Pub. L No. 117-328, Division L: Title I § 132, 136 Stat. 5119 (2023); Consolidated Appropriations Act, 2024, Pub. L No. 118-42, Division F: Title I § 131, 138 Stat. 326 (2024).

Photos •

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