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Maintenance Team
National Transport Commission
Level 3/600 Bourke Street
MELBOURNE VIC 3000

By web address: www.ntc.gov.au

Dear Sir

Re: National Transport Committee - Effluent and Load Restraint Discussion Paper, May 2018

AgForce is the peak rural group representing the majority of beef, sheep & wool and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around \$6.8 billion in gross farm-gate value of production in 2015-16. AgForce exists to facilitate the long-term growth, viability, competitiveness and profitability of these industries. Our members provide high-quality food and fibre products to Australian and overseas consumers, manage around 40% of the Queensland agricultural landscape and contribute significantly to the social fabric of rural and remote communities.

Thank you for the opportunity to respond to the National Transport Committee - Effluent and Load Restraint Discussion paper, please find attached AgForce Queensland Farmers submission.

In summary, AgForce does not support Option One or Two, but will support the amendments proposed in Option Three. While AgForce recognises effluent can pose an amenity issue for high density populated areas, we do not support the use of punitive measures to reduce effluent or fines for truck drivers. Effluent is a natural biological bi-product of all livestock and management of effluent needs to be considered in this light. There are no clear guidelines for producers on effluent reduction and many variables, making it difficult to demonstrate actions taken on farm, will satisfy the inquiry if the chain of responsibility is used to portion blame.

Yours faithfully

Leo Neill-Ballantine
Transport Committee Chair



JUNE 2018

AgForce Submission

Effluent and Load Restraint Discussion Paper – National Transport Commission

INTRODUCTION

Transport makes up to 40 per cent of farmers' production costs, and therefore, access to quality and affordable transport options is vitally important for growing the Queensland agricultural industry, as well as the sustainability of the communities that support it. Transporting live cargo has unique requirements including the management of effluent to ensure animal welfare along with weed and biosecurity activities are not compromised. Management of effluent requires appropriate systems and processes that are accessible to the transporter and ensures productivity and commodity values at delivery are not negatively influenced.

The following submission will address the three proposed options outlined by the National Transport Commission *Effluent and load restraint* discussion paper relating to application of Chain of Responsibility duties and minor, incidental and unavoidable spills being subject to compliance action.

AgForce does not support the current halting and prosecution of transporters for minor and unavoidable effluent spills and is open to exploring options to ameliorate the issue. The paper states that even better preparation of livestock is unlikely to completely stop incidental effluent loss during transport AgForce supports this position and fails to see how penalising producers or truck drivers will change the risk. The livestock trucking industry should not have to bear the cost but at the same time we conclude chain of responsibility is not the best mechanism of action to apportion these costs. To most effectively address the risk and secure the desired outcome, rather than rely on penalties and prosecution, we believe establishing effluent dumps in high risk areas is a more appropriate response and we have supported the Australian Livestock Transporters Associations proposal for establishing effluent dumps. Effluent disposal facilities will address the concerns which historically have been raised in more densely populated communities. Dump capital and operating costs should preferably be covered through establishing a financial value for the effluent through a market mechanism. AgForce understands ALRTA proposal includes financial assistance to establish the dumps and secure a market.

AgForce asks the National Transport Commission to consider the responses provided below in relation to the two issues outlined in the discussion paper relating to the enforcement of load restraint breaches under the National Heavy Vehicle Law and other state laws.

ISSUE 1: Chain of responsibility parties

The discussion paper assumes that when amending the National Heavy Vehicle Law to seek clarity of the application of chain of responsibilities for duties conducted by the livestock supply chain that the desired outcome will be achieved; being the reduction of breaches. This assumption is based upon a simplification of the supply chain and lack of understanding of the work being conducted behind the farm gate.

Queensland cattle are sold into a number of markets with very different specifications and transport requirements. Rumen management is extremely important for eating quality and stress management including physical injury prevention. There is no one size fits all curfew approach that can be based on a simple equation. For example, cattle traveling long distances in the north destined for live export markets

travel better if electrolytes are used in the water before transport. This lowers their stress levels and maintains hydration throughout the journey. However, this is not the case for southern cattle sold to processors targeting MSA grading, to the sale yard, to the feedlot, or a private sale. It is not clear how chain of responsibility breaches over curfew requirements would be administered universally. Transport curfews identified in the Fit to Load guideline provide an example of best practice animal welfare this is not the same as effluent management.

If the amendments are made to the NHVL, the ability to identify, record, prove and prosecute will be extremely difficult as there are too many variables. AgForce does not believe the reforms proposed will reduce the amount of effluent spilled in the truck or on the road or change the behavior of producers on property. But it will increase the likelihood trucks are pulled over and fined for minor infringements beyond the driver's control and this has animal welfare implications.

ISSUE: 2 Minor, incidental and unavoidable effluent spills

Reforming the existing laws to make allowances for minor, incidental and unavoidable spills is viewed by AgForce as being a necessary provision in ensuring this issue is handled in a practical manner. Such amendments would seek to address many of the case studies highlighted in the discussion paper as being breached. There should be no restrictions on small, minor or incidental breaches especially given many of these movements occur in low density rural and regional areas.

Commentary around the road safety issues has not been identified in the discussion paper or brought to AgForce's attention through the Department of Transport and Main Roads or local government's. In addition, no incidents of small, minor and / or incidental effluent spills have been identified to AgForce as causing injury or damage or other road safety concerns. It is understood that breaches often identified as a community concern are raised in densely populated regions. If safety risks were a real concern (noting the lack of an evidence base to demonstrate this), AgForce believes that there are alternative means of safe guarding against this such as the effective location of effluent dumping sites.

Small, minor or incidental effluent spills should not be prosecuted. The ability to determine fault in this situation is difficult and the variables relating to this occurrence are extensive. For example, if there is a weather event such as rain, the effluent cannot be trapped by the tanks on vehicles, who is responsible for a likely breach in this case, the driver or producer? This is an example of how the management and treatment of effluent isn't standardised and how each transport movement varies.

Curfews in remote areas are not practical or necessary for animal welfare reasons. The cattle will travel for significant period of time prior to reaching the highly populated regions along the East Coast in a generally empty condition.

PROPOSED OPTIONS

The National Transport Commission's 'Effluent and load restraint' discussion paper has proposed three options which AgForce would like to make commentary on and outline which of these is preferred.

OPTION 1: Amend the definition of party in chain of responsibility

AgForce does not support this proposed option, for as previously outlined the variables relating to the supply chain are numerous and the ability to identify and assign fault limited. The ability to define ‘reasonable action’ that a producer should have taken prior to loading is complex given the multiple outcomes sought and there is no methodology that can be applied consistently across the variety of scenarios relating to livestock being transported, e.g. market requirements, distance being travelled and purpose of travel.

AgForce does not support transporters being pulled over due to minor infringements, for this not only impacts the operation’s productivity and profitability but also has consequences for the welfare of the livestock being moved. To comply with Option one would be onerous for a limited return to transporters and the general public. In addition, industry has advocated extensively for the Livestock Loading Concessional Scheme to remain in Queensland as this scheme has effectively provided transporters with the reasonable flexibility necessary to safely transport cattle without the need to weigh them. The scheme has reduced the compliance burden and AgForce advocates for streamlining processes not providing opportunities to pull trucks over for minor breaches. In the case of effluent, AgForce supports the development of a network effluent dumps in high risk areas to manage waste.

AgForce does not support Option 1, the introduction of legislation and punitive measures unreasonably targets truck drivers for a biological bi-product beyond their control. Requiring producers to maintain additional paperwork when there is no clear consensus on what measures are to manage effluent is unlikely to deliver the outcome sort.

OPTION 2: Amend section 111 to specifically include other chain of responsibility parties

AgForce does not support the proposed option of amending section 111, as outlined above the ability to monitor, comply and prosecute won’t be achievable. When a load restraint breach occurs, the triggering of the entire chain would not satisfy the reasonable practicable test as outlined in the discussion paper.

The paper recommends that *even better preparation of livestock is unlikely to completely stop incidental effluent loss during transport*. In addition, it is not clear who would be responsible for obtaining producers’ contribution to any penalties, particularly in cases where multiple producers are co-consigned. Nor is there any provision included to inform producers of their obligations under this option and what records would be necessary to prove mitigations were in place to reduce effluent.

The MLA paper cited in the report recommends a coordinated approach to effluent management, bringing regulators and industry groups together to address issues at the local state and national level. AgForce supports this approach and recommends processors and feedlots are engaged to understand their requirements. AgForce also requests further investigation as the MLA 2010 study did not ask producers what processes they put in place to reduce effluent. Clear guidelines are needed if option 2 is progressed.

AgForce does not support Option 2 for, as outlined in Option 1, what is ‘reasonable and practical’ isn’t possible and we believe a collaborative approach would yield better results.

OPTION 3: Allow for a minor, incidental or unavoidable loss of part of a load

AgForce is willing to support the amendment to provide for the minor, incidental and unavoidable escape, release or discharge of part of a load in circumstances related to those outlined in the discussion paper.

To support Option 3, AgForce is willing to assist in looking for opportunities for effluent management sites to be identified in critical pinch points in the transport network (e.g. densely populated areas). The solution to effluent management includes ensuring there is market value placed on the effluent itself as a potential resource.

Alternative approaches

AgForce believes that to address the concerns of the community and those in the transport industry compliance and regulation isn’t the necessary or more desirable route. There is no clear evidence in the discussion paper of the scope of the issue nor has a safety issue been clearly articulated. AgForce recommends alternative incentives for effluent management are investigated.

The discussion paper seeks to consider the concerns with effluent management as they currently stand. However, the transportation of livestock will continue to occur, and effluent will continue to be a bi-product of the industry. To address the concerns both now and into the future effluent management needs to be observed an unavoidable natural by product to be managed in the system and thus needs to be observed as a product that can have value attached to it.

AgForce is supportive of the capturing of effluent through the proposed Australian Livestock and Rural Transporters Associated (ALARTA)’s Effluent management project. To ensure the successful implementation, longevity and ongoing use of these sites, AgForce encourages the use of the CSIRO TraNSIT model to indicate appropriate locations. The TraNSIT model has been used to identify the first of these sites, should be used to map high-risk movements in the network and target investment appropriately. Ongoing funding for maintenance and operation of facilities is necessary in ensuring transport productivity is maintained along with preventing biosecurity and other risks.

In addition, we encourage projects such as that being trailed in Cloncurry with aim to turn effluent into biofuels. Outcomes that seek to create a market and place value on this by-product would benefit the industry, create alternative income streams and benefit the environment.

Conclusion

AgForce welcomes the opportunity to provide feedback on the *National Transport Commission – Effluent and Load Restraint Discussion Paper*. It is important that this body of work considers the needs, activities and practical reality of all stakeholders and ensure that the industry isn’t being unnecessarily penalized

and any interventions are proportionate. To be effective regulation would need to target the issue and practice change. AgForce is not supportive of compliance activities that unfairly penalise or increase transport regulation if the requirements imposed aren't of practical benefit and there is no evidence base that they are needed. AgForce is willing to look for opportunities to work with those across the agricultural supply chain in determining ways to convert the waste product into a valuable resource. It is the belief of AgForce that the concern of effluent management will only be addressed when the product has a market value, and all are supportive of the measures to handle this by-product once it leaves the farm gate.

For any questions or further discussion on this submission, please contact Amelia Shaw, Policy Officer (shawa@agforceqld.org.au) on 07 3236 3100.