

## **Dear Mr. President**

Thank you for your interest in addressing challenges facing America's supply chains. The undersigned members of the Ag CEO Council, request your consideration of the following recommendations to address challenges that are impacting our nation's food supply chain. The Ag CEO Council is composed of chief executive officers from national farm and commodity organizations and key supplier industries that make up the largest segment of U.S. agriculture.

The COVID-19 pandemic and subsequent surge in consumer demand has resulted in major supply chain disruptions, including in the food and agricultural supply chain. The disruptions are ongoing, and the work performed by President Biden's Supply Chain Disruptions Task Force that is co-chaired by the secretaries of Transportation, Agriculture, and Commerce is important to support resilient, diverse, and secure supply chains. Such supply chains are buttressed by strong transportation infrastructure and flexible policies and are needed to ensure America's farmers, ranchers, commodity handlers, processors, and food manufacturers can reliably deliver high-quality, cost-effective products to domestic and global consumers.

More needs to be done to overcome the current supply chain challenges, and we respectfully offer for your consideration the following recommendations on transportation, labor, and inputs:

### **Labor**

Presently, inadequate labor availability is the largest supply chain constraint facing the U.S. agricultural industry. Many of our members are unable to fill open positions throughout the production, transportation, warehousing, and processing phases of the supply chain. These shortages are directly impacting our members' ability to meet consumer demands. Not only does a labor shortage make it difficult to keep pace with open positions, but it also makes it more challenging to add shifts to keep pace with increasing demand for agricultural products. The lack of access to labor threatens operations and supply chain resiliency and leads to lost productivity and higher prices for food and agricultural products along the supply chain.

We are supportive of creating pathways for well-trained drivers to enter the transportation industry. With 49 states already allowing drivers under the age of 21 to get their commercial driver's license and operate on intrastate roadways, the pilot program in H.R. 3684, the Infrastructure Investment and Jobs Act, will provide an opportunity to address driver shortages by promoting a career pathway in trucking while safely developing a highly trained transportation workforce. According to the American Trucking Association, the driver shortage has reached 80,000 drivers, up from a pre-COVID estimate of 60,000.

While we support the use of vaccines to fight the spread of COVID-19, as announced, the forthcoming Emergency Temporary Standard (ETS) could exacerbate already serious labor shortages facing all forms of transportation. We encourage the administration to continue to recognize the critical infrastructure status of the agricultural and transportation sectors and

provide flexibility to avoid the negative effects a vaccine mandate would have on the efficiency and reliability of the agricultural supply chain. We support extending this flexibility to drivers engaged in cross border trade with Mexico and Canada. We would like to partner in developing solutions and educational programs that will expand the number of vaccinated workers without introducing additional risks to the agricultural supply chain.

## **Container Shipping**

The lingering effects of the COVID-19 pandemic's shock to global trade have resulted in a backlog of container ships waiting to unload at critical shipping ports. Several patterns are contributing to this ongoing congestion that is harming U.S. agriculture's ability to capture export opportunities. To help with container movements, we recommend your administration take the following actions:

- Support legislation, including the bipartisan Ocean Shipping Reform Act, H.R. 4996, to address the unfair practices that are currently damaging U.S. agriculture exports.
- Direct the U.S. Department of Justice to review the existing Shipping Act law to determine if the enforcement tools in that act can be activated to gain compliance with the other provisions of the act setting forth reasonable practices.
- Establish an inter-agency working group focused on facilitating agricultural exports.
- Sponsor initiatives that increase operational tempo, including increasing gate operations, to include port authorities, terminal operators, labor, ocean carriers, shippers, and truckers.
- Provide federal support for deployment of port and national data-sharing portals, such as already developed by the Port of Los Angeles.
- Incentivize ocean carriers to increase export flows by fully utilizing their existing capacity.
- Increase coordination between the Federal Maritime Commission (FMC) and the Surface Transportation Board (STB or Board) on oversight of multi-modal container shipments to ensure that the FMC and the Shipping Act apply to the complete international transit of goods from origin to destination.
- Provide public support for and any necessary resources towards the activities the FMC is undertaking on this issue, including the Interpretive Rule on Demurrage and Detention and other enforcement and administrative actions.

## **Inland Waterways**

We urge support for the funding and construction of the top 15 lock and dam projects identified by the Army Corps of Engineers in the 2020 Capital Investment Strategy (CIS). The CIS outlines a scenario where all 15 projects could be constructed in 10 years at a cost of \$7 billion. This includes seven additional 1,200-foot locks on the Upper Mississippi River and Illinois Waterway as part of the Navigation Ecosystem Sustainability Program (NESP). Lock and Dam 25 on the Upper Mississippi River is part of NESP, and is the top ranked new construction start on this list of 15 priority projects. We urge your administration to reinforce – with Congress and

the Office of Management and Budget – the importance of funding and constructing the NESP lock and dams to bring U.S. inland waterways transportation into the 21<sup>st</sup> century.

### **Hours of Service**

We recommend the U.S. Department of Agriculture (USDA) and U.S. Department of Transportation (USDOT) continue to coordinate to ensure all agricultural transporters and the rest of the trucking industry have the flexibilities needed to provide timely delivery of essential products. Flexibilities such as relief from Hours-of-Service requirements have been critical over the last 18 months. Our industry has proven that we can maintain a high level of safety while also efficiently delivering wholesome and affordable food to the American consumer. Retaining this flexibility is needed now more than ever to support efforts to work through the backlogs at the ports.

### **Harmonize Truck Weight Limits**

Our nation's woefully outdated truck weight standards hurt trucking capacity and economic and environmental efficiencies. The current 80,000-lbs. gross vehicle weight (GVW) limit on Interstate Highways has been in place since 1982 despite major advancements in vehicle safety and higher weight limits in many states and other countries. The lower federal weight limit prevents drivers from utilizing the best shipping route if it includes Interstate Highways, which are our nation's safest, best built and maintained roads.

We support modestly increasing truck weight limits by allowing 91,000-lb., six-axle vehicles on federal Interstate Highways. This configuration complies with the federal bridge formula and is shown to have better braking capacity than 80,000-lb., five-axle trucks. In March 2020, Congress provided states with the option to determine truck weight limits for 120 days through Section 22003 of the CARES Act and the ensuing trucking efficiencies were gained safely. Section 22003 of the CARES Act should be reinstated as soon as possible and, at a minimum, until the severe backlog at our nation's ports is resolved.

### **Entry Level Driving Training Program**

We recommend a 2-year delay in the Federal Motor Carrier Safety Administration's Entry Level Driver Training requirements, which are scheduled to go into effect in February 2022. We are very concerned that these training requirements could impact driver availability at a time when there already is a growing driver shortage due to the Covid-19 pandemic.

### **Axle Tolerance**

We support policy that authorizes a 10 percent axle weight tolerance to account for dry bulk shipment shifting during transport. Load shifts during transport can result in undeserved citations for drivers because an axle group becomes heavier than allowed under current law, even though the overall truck weight is below the federal truck weight limit of 80,000 pounds.

## **Farm-Related Restricted Commercial Driver's License (CDL) Program**

The Farm-Related Restricted CDL program, or more commonly referred to as the "Seasonal Ag CDL" program, is essential during the busy planting and harvesting seasons for farm-related service industries. However, the duration of the program needs to be increased from 180 days to 270 days to accommodate the various planting and harvesting seasons within agriculture and the renewal process needs to be automated.

## **Rail**

We believe rail carriers have gone too far in removing network and operational capacity through precision scheduling railroading (PSR). The loss of capacity generally results in poor service and significant risk for rail customers. Due to the loss of capacity, an upward change in freight demand or a weather event can lead to a severe and long-lasting disruption to rail service. The removal of capacity through PSR may make the rail carriers slightly more profitable, but it comes at a high cost for their rail customers, and subsequently, the American consumer. Moreover, the reduction in freight rail personnel, self-imposed through PSR, and additional staff losses due to vaccine mandates could make rail service problems even worse.

Increasing competition among freight railroads and other transportation modes is imperative and shippers and receivers need increased access to railroad service information to enable informed business and capital investment planning. The Board can increase competition among railroads by finalizing a long-pending proceeding on competitive switching. Competitive switching will enable shippers and receivers that are captive to one rail carrier, but are near a second rail carrier, to gain access to the second carrier via a short distance switch.

For shippers and receivers that are not close to a second rail carrier to benefit from competitive switching, there is a rulemaking underway at STB – known as the Final Offer Rate Review (FORR) – that will result in a more streamlined, simplified, and less costly process for challenging unreasonable rail rates. The Board should finalize its FORR proceeding.

Greater access to rail carrier data is needed by shippers and receivers to help optimize their supply chain operations. We commend the STB for requesting information on first-mile/last-mile rail service, which is an often overlooked, but extremely important area in the agricultural supply chain.

Regulatory actions imposed or initiated by the AAR Tank Car Committee, with NO cost-benefit analysis, have raised shipping costs for the fertilizer industry by millions of dollars. The rail industry's delegated authority, granted by the U.S. Government, needs to be reformed to appropriately comply with the Administrative Procedure Act.

We believe our recommended action items would provide relief to the current supply chain policies and enable U.S. farmers, ranchers, commodity handlers, processors, and food

manufacturers to reliably deliver high-quality, cost-effective products to domestic and global consumers. We look forward to partnering with you to support the adoption of resilient, diverse, and secure supply chain practices.

**Sincerely,**

**Ag CEO Council**