Submitted Electronically

October 18, 2021

The Honorable Pete Buttigieg
U.S. Department of Transportation
1200 New Jersey Avenue SE, West Building,
Ground Floor (W12–140)
Washington, DC 20590–0001

RE: Docket No. DOT-OST-2021-0106

Dear Secretary Buttigieg:

The associations that make up the Agricultural Transportation Working Group (ATWG) submit this statement in response to the U.S. Department of Transportation's (USDOT) request for information that will be used to prepare a report for President Biden on supply chains for the industrial base.

The undersigned agricultural producer, commodity, agribusiness and food-related national organizations respectfully request the Biden administration's support to advance transportation infrastructure and policies for truck, rail, waterways and ports that will enhance the efficient and cost-effective transport of agricultural and food products. The farmers, ranchers, food and beverage manufacturers, processors, package suppliers, farm supply dealers and agricultural product marketers that comprise our collective memberships are dedicated to providing safe, abundant, affordable and sustainably produced human and animal food, fiber and other agricultural products that directly benefit U.S. and global consumers and contribute significantly to U.S. economic growth and trade. Importantly, they also support and sustain millions of American jobs, many in rural communities.

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 policy 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 institutionalize the lessons that are being learned from the pandemic to ensure resiliency of the food and agricultural supply chain. We respectfully offer for your consideration the following recommendations:

Labor

Presently, inadequate labor availability is the largest supply chain constraint facing the U.S. agricultural industry. ATWG 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.

During the pandemic, as agriculture continued to operate while also prioritizing the health and safety of their employees, the shortages of personal protective equipment, disinfectants, and other COVID-19 mitigation tools created challenges. In planning for the next crisis, the U.S. government should ensure that the food supply chain continues to be deemed essential and receives priority access to necessary supplies in future response plans. Furthermore, the U.S. government should consider efforts to create national stockpiles of supplies, such as respirators and face masks which are required for application of certain pesticides.

Specifically, within DOT's jurisdiction, policies to increase trucking productivity would be helpful as would harmonizing the federal truck driving age limit with the state age limit to provide a more accessible pathway into the trucking industry for drivers aged 18-20.

Another specific concern is how a forthcoming Emergency Temporary Standard (ETS) regarding vaccines is implemented. We support the use of vaccines to fight the spread of COVID-19, but as announced, the ETS could cause serious labor disruptions for agribusinesses. We encourage the administration to continue to recognize the critical infrastructure status of the food and agriculture sector and provide flexibility for agricultural employers to avoid the negative effects a vaccine mandate would have on the efficiency and reliability of the agricultural supply chain. 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.

Climate Policy

The ability for the U.S. food and agricultural sector to continue as the world's largest hinges on the availability of cropland to produce raw agricultural commodities. The production of raw agricultural commodities is the beginning and most important part of the food and agricultural supply chain. An abundant, affordable, sustainable, and wholesome supply of raw agricultural commodities is a prerequisite for the remaining steps in the food and agricultural supply chain.

Due to the inherent linkage between the first step in the food and agricultural supply chain, the production of raw agricultural commodities, and the climate change policies that are under consideration, the ATWG urges the Transportation, Agriculture and Commerce Departments to

assess their climate change policies and supply chain policies in tandem. Policies that idle cropland and reduce U.S. agricultural output result in less U.S. agricultural market share and harm rural economies.

As an alternative to cropland idling climate change polices, the ATWG urges the U.S. Department of Agriculture (USDA) to prioritize federal resources toward working land programs to achieve large environmental and economic benefits by incentivizing broader adoption of best management farming and ranching practices across potentially hundreds of millions of our nation's best acres for agricultural production.

Transportation Policy and Infrastructure

The ATWG recommends strengthening U.S. freight transportation policy and infrastructure to help ensure there are many efficient ways for agricultural commodities and products to flow throughout the agricultural supply chain. The ATWG believes the U.S. freight transportation system can be strengthened through the following ways:

1. Adopt solutions to better balance the needs of ocean carriers with the needs of our agricultural exports.

2. Increase federal investment to modernize U.S. inland waterways locks and dams – particularly those on the Upper Mississippi River and Illinois River (UMR-IR) System – and fully utilizing the Harbor Maintenance Trust Fund for its intended purpose of dredging U.S. ports and harbors.

3. Foster increased competition among freight railroads and other transportation modes, provide a better method for challenging unreasonable rail rates and require railroad carriers to provide increased access to railroad service data to enhance agricultural supply chain operations.

4. Increase motor carrier capacity through regulatory reform and legislative change and investing strategically in rural roads and bridges through collaboration with states.

Container Shipping

We are supportive of efforts to better balance the needs of ocean carriers with the needs of our agricultural exports. Concerns over ocean carriers and terminals practices at U.S. ports include ignoring the Federal Maritime Commission's existing demurrage and detention guidelines, making containers unavailable to carry agricultural export cargo, cancelling or refusing export container bookings and a persistent lack of timely notice of changes to U.S. shippers.

The lingering effects of the COVID-19 pandemic's shock to global trade have resulted in a backlog of container ships waiting to unload outside the West Coast's most critical shipping

ports. Ongoing congestion and related logistical obstacles threaten U.S. farmers' and ranchers' ability to meet much-welcome increases in foreign demand for our products.

Elevated imports and exports have caused considerable congestion both on water and land as the ports fill with the extra containers. To avoid congestion and to get containers back to Asia as quickly as possible so that they can be refilled with more import goods, there has been an increase in the shipment of empty containers out of the West Coast ports. Some consider it more efficient to ship empty containers, rather than waiting for export goods to be loaded, which has led to a significant decline in the number of containers available to agricultural exporters.

Across California's three major ports, the shipment of empty containers jumped 56% from an average of 1.16 million TEUs (20-foot equivalent units) in the first quarters of 2018-2020 to 1.81 million TEUs in the first quarter of 2021. Compared to the first quarter of 2020 alone, the first quarter of 2021 represents an 80% increase in empty export container units. At the Port of Los Angeles, in 2021, through July, nearly 75% of all exported containers were empty. Accessibility to export containers has been further limited by record shipping costs and harmful surcharges. With these factors combined, the ability for farmers and ranchers to fulfill oversees contracts has been significantly impacted, with some estimations nearing $1.5 billion in lost agricultural exports.

All these harmful patterns are contributing to supply chain dysfunction, increased costs for U.S. agricultural exporters and preventing U.S. shippers from capturing export opportunities. The ocean shipping industry has vastly changed in recent years, increasingly to the detriment of U.S. exporters.

Inland Waterways

A modern, efficient inland waterways transportation system (locks and dams) is critical to U.S. agriculture and the entire U.S. economy. Our nation's inland water navigation system is a low-cost and environmentally sustainable way to get crop inputs, such as fertilizer and farm supplies, to farmers and for delivering harvests, such as grains and other crops, to domestic and international markets. In 2020, the United States exported 29 percent of its grains and oilseeds. Of this quantity, more than half transited the Mississippi River System, while 29 percent moved through the Columbia-Snake River System in the Pacific Northwest, and 5 percent was shipped through the Texas Gulf. U.S. agricultural exports traditionally contribute a nearly $15-$20 billion surplus to the U.S. balance of trade, as well as provide upwards of 20 percent of U.S. farm income.

Unfortunately, most locks on the UMR-IR System were built in the 1930's and have long surpassed their projected 50-year design life. These locks were built when 600-foot locks were the standard. Today, a full barge tow is 1,200-feet so upgrading this aging infrastructure is a necessity and will strengthen U.S. agricultural competitiveness and the resilience of the country's supply chain. A 2016 study by the University of Tennessee and funded by USDA,

looked at two locks along the UMR-IR and found that unscheduled outages would result in the loss of 12,500 jobs and reduce economic activity by $4.2 billion.

Another significant study issued in August 2019 and conducted by Agribusiness Consulting (formerly Informa Economics) under a contract with the USDA Agricultural Marketing Service, entitled "Importance of Inland Waterways to U.S. Agriculture", quantified both the critical connection between the inland waterways and the competitiveness of American agriculture in global markets, as well as the economic costs of delaying renovation of America's river transport network.

Among other things, the study found that the inland waterways system saves between $7 billion to $9 billion annually over the cost of shipping by other modes (values based on all goods currently being moved on the water compared to the same volume transported by rail). It also found that every dollar of waterways activity output results in $1.89 in additional U.S. economic activity directly related to the waterways.

Most significantly, the study found that compared to the status quo, increasing investment in the inland waterways system by $6.3 billion over a 10-year period (through 2029) and $400 million per year thereafter through 2045 cumulatively would grow the waterways' contribution to U.S. gross domestic product by 20 percent (to $64 billion) and increase waterways-related employment by 19 percent, to 472,000 jobs. The study says this option would more than offset the cost of completing all the proposed projects and would increase the market value of U.S. corn and soybeans by $39 billion. Conversely, reduced investment would decrease the market value of those commodities by $58 billion.

In addition to the economic and competitiveness enhancing benefits of the inland waterways transportation system, the environmental and energy efficiency qualities must also be recognized. According to a 2017 study by the Texas A&M Transportation Institute prepared for the National Waterways Foundation, barge transportation produces the least amount of CO2 emissions compared to rail (30% more) & truck (1,000% more). Further, a 15-barge tow can carry the same amount of cargo as 1,050 semi-trucks or 216 railcars. Barge transportation is the most fuel-efficient form of surface transportation and policymakers should prioritize the modernization of U.S. locks and dams in any infrastructure bill as well as the annual appropriations process.

Specifically, the ATWG urges 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 the top ranked new construction start on this list of 15 priority projects. The ATWG urges USDA to continue to reinforce with Congress and the Office of Management and Budget, the importance of funding and

constructing the NESP locks and dams to bring U.S. inland waterways transportation into the 21st century.

Rail Competition and Service

Rail transportation remains an important mode for transporting agricultural products, even though its modal share has declined significantly. While truck and water transportation are often viewed as potential competitors to rail, they have significant limitations that prevent them from providing effective competition on all but a narrow range of movements. Water transportation cannot compete with rail except for traffic moving between an origin and destination on a navigable waterway. Truck transportation is significantly less efficient than rail, making it uncompetitive except for short distances. Today, four railroads haul more than 90 percent of all freight rail traffic and rail rates[1] have crossed a threshold that can make truck transportation the only viable option for many shippers.

Rail carrier implementation of large cost-cutting initiatives, such as so-called precision scheduled railroading (PSR), have disrupted rail service to many agricultural shippers. PSR focuses on removing network capacity in rail carrier operations to increase their operating-ratio profits. The loss of this capacity generally results in poor service for shipping and receiving customers and removes substantial rail network elasticity. This can turn an upward change in demand or a weather event into a severe and long-lasting disruption to service. The removal of capacity through PSR may make the rail carriers slightly more profitable but it comes at a high cost for rail customers in the agricultural sector.

The ATWG believes it is necessary to seek all available options to increase competition among freight railroads and other transportation modes and provide shippers and receivers with increased access to railroad service information to enable informed business and capital investment planning.

The Surface Transportation Board (STB) can increase competition among railroads by finalizing a long-pending proceeding on reciprocal (also referred to as "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 - that the ATWG hopes will result in a more streamlined, simplified, and less costly process for challenging unreasonable rail rates.

[1] Rail rates to ship anhydrous ammonia, which is a key ingredient for 75% of the essential fertilizers utilized by farmers, have increased over 200% in the past 20 years.

Lastly, greater access to rail carrier data is needed by shippers and receivers to help optimize their supply chain operations. The ATWG commends 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.

While STB has jurisdiction over disputes related to railroad service and rates, there are some areas where the USDOT can help. The DOT has delegated authority to the rail industry via the Association of American Railroads (AAR) Tank Car Committee (TCC). For many years, shippers have been trying to work with AAR and DOT to reform the processes of the TCC. Historically, TCC has imposed measures on shippers that raise serious concerns about the extent of TCC authority. While this is a complicated issue, to date, DOT has not responded to a shipper-industry petition filed in 2016 on this matter.[2] In recent years, regulatory actions imposed or initiated by the TCC, without a cost-benefit analysis, have raised shipping costs for the fertilizer industry by millions of dollars. DOT can and should make an effort to reform the AAR Tank Car Committee.

Motor Carrier Freight Transportation Efficiency

The ATWG believes supply chain resiliency can be enhanced by strengthening the motor carrier freight transportation sector through streamlined and cost-effective regulatory and/or legislative policy. To increase transportation capacity and efficiency of this sector, the ATWG recommends the following regulatory and legislative policies:

1. Adoption of policies to mitigate the ongoing truck driver shortage, such as removing the commercial driver's license (CDL) restrictions on drivers aged 18-20 that creates an obstacle to recruiting a new generation of drivers into the industry. There are 49 U.S. states that allow 18-year-olds to obtain a CDL, but federal law prohibits them from driving across state lines until they are 21. The ATWG is supportive of pathways that include additional training to bring more drivers aged 18-20 into the industry.

2. With the challenges facing supply chains and a shortage of drivers, we continue to see bottlenecks, supply constraints and increased costs when moving goods across the country. As we saw in the early days of the pandemic, much of the agriculture supply chain relies on just-in-time delivery. This is also extremely important when considering the need for animal feed, farm supplies to arrive at the appropriate time during planting season as well as completing harvest before crops spoil or the season ends. It is also critical that we can safely transport our live animals and insects to their destinations without delay.

   We recommend that USDA and USDOT continue to coordinate to ensure agricultural haulers and the rest of the trucking industry have the flexibilities needed to provide timely

[2] Petition No. P-1678; Docket No. PHMSA 2016-0093

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.

3. Adoption of a 10% axle tolerance for dry bulk shipments. This bipartisan policy, supported by Rep. Anthony Brown (D-Md.) and Rep. Mike Gallagher (R-Wis.), was included in H.R. 3684, the INVEST in America Act.

   Load shifts during transport can result in tickets for drivers because a portion of the truck becomes heavier than allowed under current law, even though the overall truck weight is below the federal truck weight limit of 80,000 pounds. The ATWG supports this policy already adopted by 38 states on state/county roads that authorizes an axle weight tolerance to account for this shifting during transport.

4. Adoption of a pilot program to achieve economic and environmental efficiencies through a modest increase in federal truck weight limits.

   Lower Interstate Highway System truck weight limits relative to state road truck weight limits are a barrier to economic and environmental efficiency. The 80,000-lbs. gross vehicle weight (GVW) limit on Interstate Highways has been in place since 1982 despite major advancements in vehicle safety and paving technology.

   If a state's truck weight limit for its roads is 91,000 pounds and the Interstate Highway weight limit is 80,000 pounds, and the route includes an Interstate Highway then the driver's utilized freight limit is only 80,000 pounds. This can prevent trucks from utilizing the best shipping route if it includes Interstate Highways, which are our nation's safest and best built and maintained roads. A tractor-trailer combination loaded to 80,000 pounds carries approximately 50,000 pounds of freight. At 91,000 pounds, the tractor-trailer combination carries about 60,000 pounds of freight, amounting to about a 20 percent increase in freight efficiency and an associated reduction in its carbon footprint.

   The ATWG urges authorization of an opt-in pilot program to modestly increase truck weight limits by allowing 91,000-lb., six-axle vehicles on federal Interstate Highways in 10 states. 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.

5. Maintaining the existing minimum financial liability coverage level for motor carriers. Efforts to increase liability insurance for motor carriers beyond the current $750,000 level will increase freight costs without any known safety benefits. Annual premiums for each

truck are already significant at about $5,000 per year. Whereas the minimum automobile liability insurance for most states is less than $100,000, which is inequitable to the $750,000 minimum for truck financial liability. Raising the minimum financial liability coverage level for motor carriers will increase the already inequitable difference between coverage for automobiles and motor carriers.

6. Support necessary reforms to modernize the Farm-Related Restricted CDL program, which has currently been adopted by 24 states. The Farm-Related Restricted Commercial Driver's License (CDL) or more commonly referred to as the "Seasonal Ag CDL" program has been an essential seasonal program for farm-related service industries since 1992. These industries have a very strong transportation safety record and it has not been diminished since these federal regulations have been in place. The Seasonal Ag CDL program has helped promote economic growth for America's agricultural industries serving the essential needs of farmers during the busy planting and harvesting seasons. Due to challenging weather events, the increase in crop production diversification, technological advances and weight increases in light duty pickup trucks and agricultural equipment over the past several decades, it is necessary to modernize the federal regulations providing the framework for these state administered programs. The temporary shutdown of the state Department of Motor Vehicles offices throughout the nation during the height of the Covid-19 pandemic also caused major disruptions for farm-related service industries and their rural communities.

   More flexibility is needed and can be provided by expanding the total days allowed to utilize Farm-Related Restricted CDL drivers by up to 270 days to accommodate for the longer seasons, which can fluctuate from year to year due to climate change as well as more diversified crop production. Individual states would maintain the ability to set the seasons these days could be utilized by the industry. The new 12-month seasons restart should occur each calendar year on January 1 to prevent any overlap of seasons from the previous year and the requirement for an in-person seasonal renewal should be eliminated.

Concluding Statement

The ATWG commends the Departments of Transportation, Agriculture and Commerce for seeking ways to support resilient, diverse, and secure supply chains to help ensure U.S. economic prosperity and national security. Such supply chains 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.

The ATWG's most pressing recommendation is to address labor availability, which is among the largest supply chain constraints facing the agricultural sector. 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. Specifically, within DOT's jurisdiction, policies to increase trucking productivity would be helpful as would harmonizing the federal truck driving age limit with the state age limit to provide a more accessible pathway into the trucking industry for drivers aged 18-20.

Further, the ATWG recommends USDA agencies collaborate on their climate change and supply chain polices due to their inherent linkage to the production of raw agricultural commodities – the first step in the food and agricultural supply chain and the most likely step to be impacted by climate change policies. As an alternative to cropland idling climate change polices, the ATWG urges USDA to prioritize federal resources toward working land programs to achieve large environmental and economic benefits by incentivizing broader adoption of best management farming and ranching practices.

The ATWG supports strengthening U.S. freight transportation policy and infrastructure to help ensure there are many efficient ways for agricultural commodities and products to flow throughout the agricultural supply chain. The ATWG believes the U.S. freight transportation system can be strengthened through the following ways:

1. Adopt solutions to better balance the needs of ocean carriers with the needs of our agricultural exports.

2. Increase federal investment to modernize U.S. inland waterways locks and dams – particularly those on the UMR-IR System – and fully utilizing the Harbor Maintenance Trust Fund for its intended purpose of dredging U.S. ports and harbors.

3. Foster increased competition among freight railroads and other transportation modes, provide a better method for challenging unreasonable rail rates and require railroad carriers to provide increased access to railroad service data to enhance agricultural supply chain operations.

4. Increase motor carrier capacity through regulatory reform and legislative change.

Thank you for this opportunity to provide information that will be used to prepare a report for President Biden on supply chains for the industrial base. We believe our responses provide ideas to support supply chain policies that will allow 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 working with you to support U.S. agriculture's adoption of resilient, diverse, and secure supply chain practices.

Sincerely,

Agricultural Transportation Working Group

Agricultural and Food Transporters Conference
Agricultural Retailers Association
Agriculture Transportation Coalition

Amcot
American Beekeeping Federation
American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Pulse Association
American Seed Trade Association
American Sheep Industry Association
American Soybean Association
Corn Refiners Association
Farm Credit Council
Fresh Produce Association of the Americas
Growth Energy
Hardwood Federation
Institute of Shortening and Edible Oils
International Dairy Foods Association
Livestock Marketing Association
National Aquaculture Association
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Grange
National Grocers Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Sorghum Producers
National Sunflower Association
North American Millers' Association
North American Renderers Association
Pet Food Institute
Specialty Soya & Grains Alliance
The Fertilizer Institute
United Dairymen of Arizona
United Fresh Produce Association
United States Cattlemen's Association
USA Dry Pea & Lentil Council
USA Rice
U.S. Canola Association

US Dry Bean Council
U.S. Pea & Lentil Trade Association
U.S. Poultry & Egg Association
Waterways Council, Inc.
WineAmerica