



October 18, 2021

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Re: Notice of Request for Information on “America's Supply Chains and the Transportation Industrial Base”; 86 FR 51719; Docket No. DOT-OST-2021-0106

Dear Secretary Buttigieg:

The American Chemistry Council (ACC) represents a diverse set of companies engaged in the business of chemistry, an innovative, \$486 billion enterprise. We work to solve some of the biggest challenges facing our nation and our world. Our mission is to deliver value to our members through advocacy, using best-in-class member engagement, political advocacy, communications, and scientific research. We are committed to fostering progress in our economy, environment, and society.

The business of chemistry:

- Drives innovations that enable a more sustainable future.
- Provides 529,000 skilled good paying jobs—plus over 4.1 million related jobs—that support families and communities.
- Enhances safety through our diverse set of products and investments in R&D.

Every year, the chemistry industry invests tens of millions of dollars to support product and worker safety. In addition to research initiatives, ACC programs focus on anticipating and preventing accidents, as well as educating the public about how to use our products safely. Chemistry makes it possible to satisfy a growing world population. Among other things, our products protect our food supply, deliver safe drinking water, ensure safe living conditions, and provide access to efficient and affordable energy sources -- including renewables -- as well as lifesaving medical treatments in communities around the globe. To enable these ongoing innovations, we advocate for public policies that support the creation of groundbreaking products to improve lives, protect our environment, and enhance the economic vitality of communities.

The chemical industry – and innovations in chemistry – are critical to achieving cutting-edge solutions in a range of areas, including transportation, technology, aerospace, environmental sustainability, and food production and safety. As a significant manufacturing sector, we are also continuously improving the energy efficiency and intensity of our own operations. The chemical industry is developing transformational technologies that cut emissions, improve energy efficiency and enable a socially, environmentally and economically sustainable future. For example, many low-carbon solutions in the transportation industrial base rely on innovations in chemistry – from high capacity batteries (HCBs) to high-performance building insulation; from lightweight plastic packaging to airplane and automobile materials and parts.



ACC members rely on the nation's transportation systems to safely move products to customers throughout the U.S. and for exports to customers globally. In 2020, over 940 million tons of chemicals and plastics were shipped by road, rail, water, and air. Investments in U.S. chemical manufacturing will drive tremendous new transportation demand, requiring 600 thousand additional truck shipments, 540 thousand additional marine container shipments, and 200 thousand additional rail shipments annually by 2030 (compared to 2021). ACC and its members support federal policies that promote safe, reliable, competitive, and efficient freight transportation options.

The Transportation Industrial Base is Core to U.S. Chemical Manufacturing

The business of chemistry is intertwined with the transportation industrial base. For example:

- A typical automobile contains over \$3,300 worth of chemistry, including 350 pounds of plastics and polymers composites and nearly 280 pounds of rubber, textiles and coatings. From the polyurethane foam seat cushioning to nylon airbags to windshield wiper fluids, an automobile's performance and safety depend on thousands of products of chemistry.
- Supplanting steel in many automotive applications, plastics and polymer composites typically make up 50% of the volume of a new light vehicle but less than 9% of its weight, which helps make cars lighter and more fuel efficient, resulting in lower GHG emissions (*Chemistry and Light Vehicles*, American Chemistry Council, 2021), while maintaining high standards of safety.
- And an analysis by the Department of Energy suggests a 6-8% (with mass compounding) increase in fuel economy for every 10% drop in weight. Thus, not only does the business of chemistry provide better performing and safer vehicles, but it provides solutions leading to improved sustainability.

As the Department assesses risks to the transportation industrial base, this also creates opportunities to promote beneficial changes by examining priority transportation and distribution issues impacting the business of chemistry in the United States. These issues include:

1. How free and open trade benefits the transportation industrial base
2. How smart U.S. regulation can impact critical supply chains
3. Why a digital supply chain would facilitate the distribution of chemical products
4. How modernizing U.S. supply chain infrastructure will increase U.S. chemical manufacturing competitiveness
5. Why U.S. government support for the entire chemical value chain is essential to the transportation industrial base
6. Why tariff relief for chemicals will bolster the transportation industrial base

ACC's comments below provide information regarding the above priorities for the transportation industrial base and supply chain risks that may affect that base.

1. The U.S. Chemical Industry Is More Competitive Because of Free and Open Trade

Over the past four years, our industry has witnessed firsthand how trade policy uncertainty and the levying of high and broad tariffs on our imports and exports has disrupted the chemical value chain and the industries that rely on the business of chemistry. As a general matter, ACC advocates for the elimination and reduction of tariff and non-tariff barriers wherever possible. Reducing trade barriers is a better way to support production in the U.S. as opposed to the wielding of blunt trade instruments, which only increase uncertainty, add costs to the chemical and downstream industries, and weaken competitiveness. We are also mindful that enabling greater U.S. production may require additional

incentives from the U.S. and state governments. These incentives should be constructed in a way that does not distort trade and investment. As we have learned, when the United States implements trade actions such as tariffs, U.S. trading partners respond in kind, often retaliating against America's greatest and most competitive exports, including chemicals.

We encourage the Department of Transportation in its review of the transportation industrial base to focus on what makes the U.S. chemical industry competitive:

- Abundant sources of natural gas and natural gas liquids, the primary feedstocks and energy sources for manufacturing chemicals in the United States;
- A 21st century digital infrastructure for the safe, secure, sustainable, competitive, reliable, and efficient transportation of chemicals in the United States;
- Low cost imported intermediate inputs into manufacturing of chemicals;
- High-skilled labor, including through immigration;
- Rule of law, including unbiased court systems that reliably and predictably enforce contractual commitments;
- Strong protection of intellectual property rights, including trade secrets;
- World-class ecosystem for industry-university-government collaborative research & development and innovation; and
- High-standard protections for human health, safety, and the environment.

By enhancing our competitiveness in the above areas, U.S. chemical manufacturers will be in a stronger position to produce more in the United States. Demand for the products of chemistry will increase in the U.S. over time, but this increase in demand will be even more rapid in the rest of the world. In that regard, it is critical that the U.S. strategy on supply chain resilience prioritize opening new markets.

Commercially meaningful new market access allows our companies to take advantage of economies of scale, thereby manufacturing more important chemistries at home in the United States and exporting more of those chemistries to the world. Enhancing our competitiveness will lead to more competitiveness in the long run – and therefore greater supply chain resiliency.

And where U.S. trading partners are not playing by the rules and tilting the playing field in the favor of their domestic companies, we urge the Administration to enforce U.S. trade agreements and U.S. trade remedies laws. Furthermore, we encourage the Administration to seek U.S.-equivalent standards for environmental protection globally, and to ensure that EPA's processes for implementation of new standards are science-based and transparent, so that chemical products, processes, and jobs do not move out of the United States into jurisdictions with weaker environmental protections.

2. Smart Regulation of New Chemicals Will Support the Transportation Industrial Base

The resilience of critical supply chains must be supported by a domestic chemical management regulatory structure that, in addition to pursuing chemical safety, also enables innovation and the development of high-performance products. As the Department of Transportation assesses potential vulnerabilities and supply chain risks in the transportation industrial base, it is important to explore with the Environmental Protection Agency (EPA) the impact of its ongoing assessments of new and existing chemistries that are vital to U.S. national security interests and climate priorities (e.g., chemicals that are essential to manufacturing, performance and safety of semiconductors, high-capacity batteries, renewable energy installations, 5G infrastructure, medical devices, building insulation, and other critical products).

EPA involvement is necessary when developing cross-cutting supply chain policies. Inter-agency communication is needed to ensure that certain policies, such as EPA's chemicals regulatory requirements under the Toxic Substances Control Act (TSCA), do not inadvertently impede the supply chain objectives of other agencies. Supply chain policy should reflect the importance of upstream manufacturing, which is necessary for enabling downstream development of products essential to the Administration's resiliency and environmental goals.

To this end, the ACC urges the alignment of policy so that regulatory and supply chain initiatives complement and support each other and do not conflict. ACC member companies make many essential inputs for products that support the transportation industrial base, such as high-capacity batteries, lightweight materials for autos and trucks, and semiconductors. ACC is concerned that chemical management regulation that does not fully consider essential uses, the need to promote innovation, and the performance or non-performance of alternatives, as well as other benefit-cost analysis criteria, may result in the offshoring of many of the productive steps central to the manufacture of semiconductors.

Importantly, as EPA examines the broader per- and polyfluoroalkyl substances (PFAS)¹ issue and implements its recently unveiled PFAS Strategic Roadmap, it is important for the Department of Transportation and other agencies to ask EPA to recognize the differences and critical benefits associated with the distinct sub-category of fluoropolymers. Fluoropolymers have a strong environmental health and safety profile and have been demonstrated to meet internationally utilized criteria for "polymers of low concern." EPA should also recognize the crucial role fluoropolymers play and the pressing need to preserve a timely and considered pathway to commercializing our next-generation chemistries to advance the critical supply chains identified in the White House Executive Order on America's Supply Chains² and 100-day review report³.

It is imperative that EPA recognize the essential nature of fluoropolymers to advancing sustainability and manufacturing goals (e.g., reducing emissions and increasing domestic production of semiconductors). EPA should reject calls for a broad definition of PFAS that would be decoupled with specific chemical properties and risk profiles, and that could undermine other environmental and sustainability objectives of the Administration. For instance, lithium ion (LiOn) batteries for electric vehicles cannot be made without fluoropolymers, and those fluoropolymers in LiOn batteries pose minimal risk to the environment. We propose that EPA focus on non-polymeric perfluoroalkyl and polyfluoroalkyl substances that contain at least 2 fully fluorinated carbon atoms and should exclude gases and volatile liquids. This definition would capture PFAS of broad concern, such as perfluorooctanoic acid (PFOA) and perfluorochemicals (PFOS).

ACC members take their environmental stewardship responsibilities very seriously, and they invest heavily to ensure that fluoropolymers are produced in an environmentally responsible manner. Additionally, with Congress and the Administration poised to finalize a once-in-a-generation level of investment in the nation's infrastructure and climate priorities, there is a tremendous opportunity to create financial and other incentives for industry to invest in polymer circularity that would create a closed-loop system in the United States for chemistries that are pivotal to the long-term viability of strategic U.S. supply chains and the industrial base of a world-leading economy.

¹ This term encompasses thousands of discrete chemistries.

² <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/>

³ https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf?utm_source=sfmc%E2%80%8B&utm_medium=email%E2%80%8B&utm_campaign=20210610_Global_Manufacturing_Economic_Update_June_Members

Advancing smart regulation that reduces environmental risk and drives environmental and sustainability benefits -- while ensuring that critical next-generation chemistries have a viable path to commercialization -- should be an overarching goal. Absent regulatory certainty for fluoropolymers, the downstream critical product manufacturers investing heavily to manufacture domestically may not have access to the critical chemistries needed to meet the demands of U.S. consumers while competitors manufacturing abroad will certainly exploit this void.

Regulatory uncertainty will distort the playing field and incentivize product sourcing for critical industry sectors outside the United States, directly contrary to the Administration's objectives of enhancing U.S. supply chain resiliency and strengthening environmental protection. We encourage the Department of Transportation to engage with EPA directly to ensure "whole of government" approach for advancing U.S. competitiveness for these critical supply chains. Among other things, DOT and other federal agencies should be well-connected with EPA's Office of Chemicals Safety and Pollution Prevention's New Chemicals Program to identify categories of chemicals, or particular uses, that are essential to achieving the Administration's broader objectives (e.g., defense, supply chain resilience, public health, and environmental sustainability).

A coordinated approach provides the best opportunity to ensure that (i) the domestic critical product manufacturers continue to have access to all the key chemistries necessary to innovate and compete; and (ii) responsible chemical manufacturers supporting their critical product customers can make the significant and necessary R&D and capital investments here at home.

3. A Digital Supply Chain Will Facilitate the Distribution of Chemical Products

The need for resilient, diverse, and secure supply chains is crucial to ensuring U.S. economic prosperity and national security. Such supply chains are needed to address conditions that can reduce critical manufacturing capacity and the availability and integrity of critical goods, products, and services. Currently, the chemical distribution supply chain is largely a paper-based system, requiring shippers, carriers and customers to sign-off using paper shipping documents. This cumbersome process needlessly creates inefficiencies and increased safety risks.

Converting from a paper process to a digital platform for maintaining and processing shipping documents throughout the chemical distribution supply chain would transform the way chemical products are handled and managed, offering improved distribution and routing efficiency, decreased dwell time, inventory tracking and management, advanced analytics, and contactless processes to enhance the health and safety of workers. Such a conversion will reduce paperwork, consistent with the 1980 Paperwork Reduction Act. In FY2017 alone, DOT imposed 189.24 million hours of paperwork burden on the U.S. public. A standardized approach for the physical data carrier (e.g., barcode/RFID) that links the physical shipments with the digital backend needs industry support and government incentives to move forward.

The U.S. Department of Transportation should support modernization of the chemical transportation supply chain by investing in digitization of the transportation infrastructure. The U.S. DOT can do this by:

- Promoting adoption of a standardized approach to electronic shipping documents and supply chain information to support the efficient and safe transportation of chemicals throughout the U.S.

- Investing in and providing incentives to modernize digital infrastructure across the nation to improve connectivity, and data security.
- Providing incentives to members of the chemical transportation supply chain to adopt electronic shipping documents and related technology.
- Removing regulatory barriers to adopting digital solutions for improving the flow of chemicals throughout the supply chain.
- Investing in R&D and provide grant funding for the development of creative technology solutions for enhancing the efficient and safe transportation of chemicals through the supply chain.

The global COVID-19 pandemic has posed new and unforeseen challenges to supply chains around the world, prompting carriers, shippers, and retailers to adjust processes and implement new protocols to ensure the health and safety of workers while keeping the flow of goods and services moving. This evaluation of processes and how to conduct business has also prompted renewed consideration of how to accelerate technology deployments, collaborate with trading partners, and think outside-the-box to enhance efficiency and ensure on-shelf-availability during a period of unprecedented demand for consumer products.

Benefits of a digital supply chain include:

- Improved operational/workflow efficiency by streamlining operations and minimizing dwell time during the pickup and delivery process of chemicals during their distribution throughout the supply chain.
- Enhanced health, safety, and security of chemical distribution by offering a contactless workflow process and enabling a digital communications platform for exchanging chemical safety information among shippers, carriers and first responders during an incident.
- Use of digital shipping documents would have a profound effect on hazardous materials incident communications and response information support. Instant access to chemical safety and emergency response information, including the ability for push communications to fire fighters and first responders prior to their arrival on the scene would be revolutionary. During an incident, every second counts. Geospatial tracking used to pinpoint the location of a spill, or a release, could save valuable minutes during a response event by identifying the closest response asset and notifying first responders in advance on details such as type and quantity of chemicals, type of PPE required, potential evacuation measures, response options and public notification needs. Storage and access to historic data for incident response analysis, could be used to help design better systems and reduce the likelihood of future incidents.
- Promoting greater global adoption of standardized approaches to digital shipping documents will further facilitate access for US-manufactured products to key global markets, sustaining US jobs and innovation.

4. Modernizing U.S. Supply Chain Infrastructure Will Make U.S. Chemical Manufacturers More Competitive And Therefore Support The Transportation Industrial Base

The U.S. business of chemistry will be central to rebuilding and modernizing our nation's aging infrastructure as the chemical industry both depends on, and can contribute to, a stronger and better U.S. infrastructure. It is imperative that the U.S. government provides substantial funding for physical infrastructure improvements, which are critical to keeping U.S. manufacturing competitive and ensuring resilient supply chains. An efficient transportation network and robust energy infrastructure, including building out infrastructure for electric vehicles, are vital to chemical manufacturing and the industry's ability to innovate and create good paying American jobs.

A comprehensive infrastructure package should also provide funding to upgrade our ports and shipping channels, adopt reforms to promote competitive and reliable freight rail service, and bring trucking regulations into the 21st century so that the industry can deliver the essential products Americans depend on every day as safely and efficiently as possible. Further, the industry needs a modern, resilient energy grid that communities can count on and that enables always-on power for chemical manufacturers. To support new construction projects for rebuilding U.S. infrastructure, as mentioned earlier the Administration and Congress also need to work together to modernize the process for environmental reviews and permitting decisions.

The Administration's supply chain strategy should also ensure that the criteria for funding infrastructure projects are aligned with critical supply chain priorities, including increasing domestic production, facilitating exports, and ensuring access to critical minerals and other strategic materials. Infrastructure funds should prioritize addressing intermodal freight bottlenecks that are critical to the import and export of goods, specifically seaports (e.g., allowing for processing of larger container ships), related infrastructure, and distribution centers. And the federal government should provide incentives (e.g., funding for job training and vocational programs) to address supply chain-related worker shortages and turnover (especially in the trucking industry). This would encourage more workers to enter the port workforce, including workers in the longshore, warehouse, and trucking sectors, and help the current port workforce upskill as technology is increasingly deployed throughout the supply chain.

Just as a highly functioning infrastructure system is important to keeping chemical manufacturing strong in America, the chemical industry is key to making America's infrastructure better than before. That's because ACC member companies create advanced materials and technologies that go into infrastructure upgrades to make them more sustainable and resilient in addition to helping make them lighter, stronger, and more cost effective. U.S. policymakers should adopt the IMAGINE Act and the SMART Infrastructure Act as part of the comprehensive infrastructure package to support the development and use of innovative and sustainable construction materials. ACC also urges the White House and Congress to include provisions that will enable much-needed recycling infrastructure systems, including advanced recycling, and enable the use of recycled materials in infrastructure applications such as asphalt.

Our supply chain-related infrastructure also needs to be secured from both physical and cyber threats. [Presidential Policy Directive 21](#) identified the chemical sector as one of sixteen "critical infrastructure sectors." While facility security has long been a focus of the chemical industry, the events of September 11th led to heightened security concerns. Within months of the terrorist attacks of 9/11, ACC created a stringent, mandatory security program called the Responsible Care® Security Code. Since then, ACC members have invested billions to further enhance site and transportation security at their facilities.

ACC member companies, as well as all actors in their supply chains, must also assess cybersecurity vulnerabilities, implement security measures to address them, and provide appropriate training and

guidance to employees on current and emerging threats. Business leaders are increasingly investing in the security of their companies' people and information, as well as their plants, equipment, technology, storage facilities, and buildings. Companies must also consider the security of other assets, such as tank cars and other vehicles, utilities (electric power, steam, natural gas, water, sewer, etc.), railroad lines and roads, cogeneration facilities, hazardous waste processing facilities, supplies, tools, office equipment, and even employees' personal property.

Based on ACC survey data, some ACC members spend as much as 2% of their sales on security for their business operations. Security spending includes: bodyguards, guard dogs, patrol and other guard services, other security services, electronic surveillance, remote electronic monitoring of security, and miscellaneous protective services. Security costs also include those traditionally associated with information, computer, network, and related IT security. Other costs not contained in this figure include: security efforts by non-security personnel (e.g., building services); costs of process safety measures; higher freight expenses; inventory control; additional procedures; insurance; and other related expenses. Thus, these costs do not represent the entire cost of security but rather one fraction of it; actual total spending for security could be several times this amount.

Congress should provide funding to companies that operate in critical infrastructure sectors, including chemical companies, to offset these costs, which are necessary for U.S. national security and which also diminish available funds that could otherwise be spent on additional R&D, new hiring, capital improvements, and other job-creating initiatives. Congress should also pass legislation that fosters the sharing of timely cyber threat information by providing protections related to lawsuits, public disclosure, and antitrust concerns, while also guarding privacy and civil liberties. In addition, the Administration should aggressively prosecute cybercrimes and hold accountable those who perpetrate acts intended to cause harm to critical infrastructure operating systems, steal intellectual property and trade secrets, or obtain personal information for financial gain.

In addition, the Secretary of Commerce should seek recommendations from the Department's Advisory Committee on Supply Chain Competitiveness and from stakeholders through public comment on long-term strategies for mitigating port congestion and preventing container shortages that negatively impact the ability of U.S. companies to export. We encourage the Department of Transportation to work closely with Commerce in this important initiative.

Areas for exploration include: the feasibility of creating capacity to manufacture some critical mass of containers and chassis in the United States; providing federal and state tax incentives to influence the calculus of container lines in terms of ensuring sufficient container availability to support exports; implementing additional security measures to ensure delayed exported and imported containers are secure; and providing federal incentives for port communities, container lines, shippers, and other supply chain actors to adopt IoT systems and interoperable digital platforms in order to enhance supply chain visibility and enable better planning and use of predictive analytics.

On the latter point, the White House should convene a meeting with key U.S. supply chain actors and the U.S. standards community to explore whether there is an opportunity to develop voluntary consensus standards to promote the interoperability of disparate digital supply chain connectivity and visibility tools across the supply chain to serve the national interest, as well as support the development of international standards for digital documentation to ensure global harmonization.

Finally, ACC welcomes the Administration's recent Executive Order on Promoting Competition in the American Economy, in particular the provisions encouraging the Surface Transportation Board and

Federal Maritime Commission to strengthen competition in the freight rail and maritime industries; greater choice would help reduce costs and improve service for U.S. producers.

5. U.S. Tariffs Limit the Supply of Chemicals Relevant to the Transportation Industrial Base

A straightforward way to incentivize U.S. production of chemicals that can support the transportation industrial base is to provide relief from tariffs on raw materials and intermediate inputs necessary for manufacturing chemicals. ACC encourages the Department of Transportation to work with the Department of Commerce and the Office of the U.S. Trade Representative to identify the relevant chemicals exposed to most-favored-nation customs duties – particularly from trusted partners – and additional tariffs under Section 301 of the Trade Act of 1974. Quick Congressional renewal of the Miscellaneous Tariff Bill may provide temporary suspension or reduction of the MFN duties imposed on imports of raw materials and intermediate inputs. Furthermore, if they are also subject to additional tariffs under Section 301, USTR may be able to exclude these intermediate inputs from the China Section 301 tariffs. Avoiding the payment of MFN duties and additional tariffs of up to 25 percent under Section 301 will help U.S. chemical manufacturers respond quickly to increased demand for their products, instead of paying tariffs on intermediate inputs.

6. U.S. Government Support for the Entire Chemical Value Chain is Essential

Many chemicals are used by multiple downstream sectors and subsectors. The U.S. chemical industry and its customers require secure and resilient supplies of inputs to power the innovations of today and the future. We encourage the Administration to support every stage of the chemical supply chain.

To ensure that U.S. chemical manufacturers are in a stronger position to meet the increased demand for products containing chemicals in the United States and globally, we encourage the Administration to consider appropriate incentives for producing the necessary minerals, materials, and technologies in the United States. The right mix of incentives will strengthen the business case for producing, processing, and recycling chemicals in North America. A strong North American supply chain for chemicals will therefore strengthen the U.S. transportation industrial base, grow high-value, high skilled jobs, address important environmental objectives (e.g., reducing greenhouse gas emissions), bolster U.S. technology and innovation leadership, and provide support for U.S. trading partners and allies.

Although the need for investment in new clean technologies and information technology products in the United States is clear, the business case for where to produce chemistries and materials essential to these technologies and products is dependent upon many factors. The U.S. government and state governments could help solidify that business case by considering additional ways beyond tariff relief for incentivizing chemical manufacturers to increase production, update existing facilities, or build new facilities in the United States. Because the significant investments in building manufacturing capabilities takes years of planning and development, these incentives must be in place promptly in order to drive decisions for future production.

Such incentives could include:

- Tax credits and abatements;
- Expedited permitting for plant construction or upgrading;
- Timely review and approval of new chemistries under TSCA;
- Programs to educate the workforce in response to industry needs;
- Facilitation of high skilled immigration;
- Access to worker training/retraining programs;

- Public-private partnerships for research and development of new materials and technologies;
- Potential cost-shared grants to support domestic capital investments for key upstream materials, including chemical inputs, as well as infrastructure;
- Low-interest loans that support critical mineral mine development;
- Funding to support new downstream industry development due to the new on-shore supply of critical minerals (like rare earths);
- Relief/insurance for domestic supply chain disruptions, e.g., hurricanes, wildfires, and winter storms;
- Infrastructure investment to support increased production; a safe secure, sustainable, innovate, digitized, competitive, reliable and efficient supply chain; and greater access to materials and exports; and
- Value chain based approach to market development

Supply security may also be supported by cooperation under the U.S.-Mexico-Canada Agreement (USMCA), with other U.S. FTA partners, or additional trusted partners around the world. Chemicals supplied by these partners would be expected to flow more freely without restrictions and security risks.

7. U.S. Transportation Policy and Infrastructure Investments Must Address Critical Chokepoints and Capacity Constraints that Hinder Efficient Freight Movement

ACC recommends strengthening U.S. freight infrastructure and transportation policy to help ensure there are many efficient ways for chemicals and plastics to flow throughout the manufacturing value chain. The COVID-19 pandemic and subsequent surge in consumer demand have caused major supply chain disruptions, exacerbating bottlenecks and capacity constraints across freight transportation modes. Addressing these short and long-term disruptions will require a broad range of solutions and collaboration between public and private stakeholders. The following sections highlight priority actions to address current and future challenges in the freight and logistics sector.

Port Congestion and Ocean 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 outside the West Coast's most critical shipping ports. Ongoing congestion and related logistical obstacles threaten U.S. producers' ability to meet foreign demand for our products. ACC is encouraged by President Biden's recent announcement that the Port of Los Angeles will remain open 24/7, moving to a schedule that the Port of Long Beach recently announced.

ACC supports policies to encourage and incentivize new US containerized cargo port development and expansion projects to ease capacity constraint at all major US ports. These projects must address longstanding, systemic supply chain and port disruption issues which have been further exacerbated by the COVID-19 pandemic.

ACC also understands there is an opportunity for ocean carriers to utilize U.S. ports that aren't at capacity and currently allow for processing of larger container ships. Chemical production is concentrated in the U.S. Gulf Coast that has historically seen less inbound containerized cargo, forcing companies to pay premiums for vessel space and utilize limited options to ship via East and West Coast ports. More port calls are needed to areas of concentrated chemical production that utilize containers for export and equipment balances should be considered when allowing access to U.S. ports. Overall U.S. port utilization could improve with enhancements to inland infrastructure that would better connect underutilized ports, such as Mobile or the Port of New Orleans and specifically rail/intermodal

connectivity to the port with on dock services, heavy load road access and heavy load bridge infrastructure. Heavy load access would also permit consolidation of cargo and reduce carbon emissions.

In addition, ACC supports Congressional efforts, including the bipartisan Ocean Shipping Reform Act of 2021 (OSRA21), to better balance the needs of ocean carriers with the needs of with the needs of shippers and other stakeholders. For shippers, the impacts of port congestion have been compounded by ocean carrier and terminal practices, including unreasonable demurrage and detention charges, lack of container availability for export cargo, cancelling or refusing export container bookings, and a persistent lack of timely notice of changes to U.S. shippers. These factors taken together have impacted the ability of chemical manufacturers to fulfill overseas contracts.

The Federal Maritime Commission (FMC) is responsible for regulating the U.S. international ocean transportation system for the benefit of U.S. exporters, importers, and the U.S. consumer. ACC supports OSRA21 and other efforts to strengthen the FMC's authority to address current and future challenges in these critical areas.

Further potential solutions include encouraging street turns of containers to reduce empty miles performed by dray carriers. Also, shipping lines should be encouraged to accept each other's boxes through equipment interchange agreements that exist today for leased containers. This will improve the velocity of exports and the working capital for the ocean carriers.

Rail Competition, Rates, and Service

ACC members rely on the nation's freight rail system to safely and efficiently move products to customers throughout the U.S. and to ports for export. In 2020, railroads transported 2.1 million carloads of chemicals and plastics. Because of our industry's investments in new capacity, shipments are expected to increase by nearly 200,000 carloads annually by 2030.

Our nation's freight rail system has reached a critical juncture that has major ramifications for the future of freight transportation in the United States. Due to massive consolidation, the four largest railroads currently control more than 90% of all freight rail traffic in the U.S. and operate as regional duopolies. As a result, the overall cost to ship goods by rail has jumped dramatically over the past two decades while volume of rail traffic stopped expanding. In addition, most major U.S. railroads have adopted Precision Scheduled Railroading (PSR) to improve margins and boost profits. While the financial health of the railroads is important, the adoption of PSR has come at a great cost to those who rely on the railroads. It has led to thousands of job cuts, reduced service, and lower investment in the rail network.

U.S. chemical shippers have experienced widespread and persistent rail service challenges over the last year. These failures and delays have negatively impacted manufacturing operations, supply chains, and our ability to compete globally. While recognizing that the COVID-19 pandemic created daunting challenges for railroads, particularly with crew availability, we believe the issues reveal systematic capacity constraints caused by cost cutting and major operational changes over the past several years.

The Surface Transportation Board (STB) is charged with resolving rail disputes and preventing railroads from abusing their market power over their customers. Unfortunately, the STB suffers from outdated policies that disadvantage freight rail customers. For instance, the Board's rate review procedures are overly complex, burdensome, and unworkable for most shippers. In addition, STB policies effectively block many shippers from accessing competitive rail service.

ACC believes it is necessary to seek all available options to increase competition among freight railroads and other transportation modes. The 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 a rail carrier, but are near a second rail carrier, to gain access to the second carrier via a short distance switch.

Access to alternative rail service would also help address service disruptions. The STB has the power to grant a shipper access to an alternative rail carrier during a service emergency. Unfortunately, the Board’s current procedures are too burdensome and time consuming to provide meaningful relief. The Board should establish a significantly expedited process to address immediate service emergencies, prioritizing delivery of railcars needed to prevent a plant shutdown.

The STB is also responsible for maintaining reasonable rates for rail customers that lack competitive transportation options. ACC strongly supports the rulemaking underway at STB – known as the Final Offer Rate Review - that would provide a more streamlined, simplified and less costly process for challenging unreasonable rail rates.

Lastly, greater visibility into railroad service performance is needed by shippers and receivers to help optimize their supply chain operations. ACC commends STB for requesting information on first-mile, last-mile rail service, which is an often overlooked, but extremely important area in the chemical supply chain.

Motor Carrier Freight Transportation Efficiency

ACC believes supply chain resiliency can be enhanced by increasing transportation capacity and efficiency in the motor carrier freight transportation sector. ACC 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. ACC supports pathways that include additional training to bring more drivers aged 18-20 into the industry. ACC also believes there is an opportunity for DOT to incentivize less than truckload and final mile carriers to better utilize the currently restricted driver pool to improve local pickup and delivery and final mile delivery within state lines, as well as collaborate with carriers and drivers to incent 21-year-old and older drivers to expand their range into longer haul regional and national freight.

As another example, ACC encourages DOT to collaborate with industry stakeholders to develop more secure trailer relay hubs to shorten length of haul and improve home at night or next night options to attract drivers to the industry.

ACC also encourages DOT to evaluate development of dedicated road infrastructure to facilitate autonomous trucking. We recognize it is not possible in all scenarios, however elevated or separate roadways will accelerate use of autonomous vehicles to alleviate the driver shortage while improving safety and reducing carbon emissions.

2. *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. ACC 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.

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

As a member of the Safer Hauling and Infrastructure Protection (SHIP) Coalition, ACC supports prompt legislative and regulatory actions to facilitate efficient freight movement and improve supply chain fluidity.

We support efforts to modernize Federal truck weight limits through a pilot program to modestly increase gross vehicle weight limits subject to conditions that protect roads and bridges. 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. The pilot program would allow 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.

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.

Inland Waterways

A modern, efficient inland waterways transportation system (locks and dams) is critical to the business of chemistry and the entire U.S. economy. Our nation's inland water navigation system is a low-cost and environmentally sustainable way to get raw materials and inputs to manufacturing sites and shipments to domestic and international markets, including utilizing barges for container shipments to alleviate congestion at major U.S. ports. U.S. chemical exports contributed a \$29 billion surplus to the U.S. balance of trade in 2020 (\$35 billion in 2019).

ACC supports appropriate funding for inland waterways to bring U.S. inland waterways transportation into the 21st century. Specifically, 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

The Honorable Pete Buttigieg

October 18, 2021

Page 14

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.

Conclusion

U.S. chemical manufacturers, our customers, and workers have benefited from global supply chains; they also recognize that supply chain risks arise and must be mitigated. We welcome the Department of Transportation's focus on supply chain risks to the transportation industrial base, of which the business of chemistry is a vital part. In the Department of Transportation's review, we encourage a holistic examination of risks that includes smart trade policy and regulation, incentivizing domestic development of chemicals, and practical and concrete steps to promote supply chain resilience in across transportation and distribution channels. Robust interagency and stakeholder consultation will be key to arriving at effective recommendations that are fit for purpose and support free and open trade and investment. ACC is ready to serve as a source of information and experience regarding the role of the business of chemistry in enabling production of chemistries and supporting the transportation industrial base in the United States.

Sincerely,

Ed Brzytwa

A handwritten signature in black ink, appearing to read "Edward J. Brzytwa III". The signature is written in a cursive, flowing style.

Director for International Trade
American Chemistry Council