

October 18, 2021

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building, Ground Floor (W12-140)
Washington, D.C. 20590

Via Electronic Filing at <http://www.regulations.gov>

RE: America's Supply Chains and the Transportation Industrial Base; Docket No. DOT-OST-2021-0106, 86 Fed. Reg. 51,719 (September 16, 2021)

The National Association of Chemical Distributors (NACD) submits the following comments in response to the request for information published by the U.S. Department of Transportation (DOT) September 16, 2021, *Federal Register* issue regarding **Docket ID No. DOT-OST-2021-0106, America's Supply Chains and the Transportation Industrial Base.**

NACD commends DOT and the Biden administration for seeking solutions to the supply chain crisis. The chemical distribution industry relies on an efficient and cost-effective supply chain to deliver critical materials to industrial customers throughout the United States. The chemical products NACD members distribute are essential materials needed for vital functions, including water treatment, health care, energy, and food production. The supply chain is currently under tremendous strain, and NACD appreciates the opportunity to offer recommendations for addressing these challenges.

About NACD

The National Association of Chemical Distributors (NACD), established in 1971, is an international association of chemical distributors and their supply-chain partners. Member companies process, formulate, blend, re-package, warehouse, market, and transport chemical products for over 750,000 customers across the U.S. The industry that NACD represents is a major economic engine that generates \$7.5 billion in tax revenue.

NACD's members represent more than 85% of the chemical distribution capacity in the nation and 90% of the industry's gross revenue. They range from small family-owned businesses to large national and international organizations. NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution®, the association's third-party-verified environmental, health, safety, and security program. Through this verification, NACD members demonstrate their commitment to continuous improvement in every phase of chemical storage, handling, transportation, and disposal operations.

The availability of safe, reliable, and efficient transportation infrastructure is critical to the chemical distribution industry. NACD has collected data on its members' safety for the past decade and over the course of that time the industry has become even safer. Incident rates

continue to drop, and NACD members on average only have between two and two-and-one-half incidents per firm each year. For scale, in 2020 NACD members were responsible for 4.15 million chemical shipments, totaling 32.6 million tons of product. NACD's members pride themselves on the safety and security of the chemical supply chain, and continuously strive to protect the public and the environment with strict safety measures.

Labor Force Expansion

The most common problem that has caused chokepoints along every part of the supply chain is labor shortages. Imported containers are often stuck because the railroad workers, drayage personnel, drivers, and other essential workers are in short supply. In particular, the country is in dire need of truck drivers, especially for those who possess specialized driver certification and endorsements, such as hazardous materials qualifications. Contributing to the shortage is the low replacement of retiring drivers because commercial drivers are not permitted to move goods interstate until they have reached 21 years of age. Ongoing rail service disruptions and a lack of qualified drivers impact chemical distributors' ability to provide on-time product delivery to customers.

Recently, the Federal Motor Carrier Safety Administration (FMCSA) adopted a program that offers civilian career commercial driver opportunities to Reserve and National Guard members ages 18-20. FMCSA is also considering a similar pilot program for non-military drivers ages 18-20. NACD submitted comments to FMCSA in support of this program for non-military young drivers. NACD members believe capable young adults can safely manage the responsibility of the role of commercial driver when provided with proper training, guidance, and oversight, as should be the case for anyone entering a new profession, regardless of their age or other demographic. Programs like this capture prospective talent and create an avenue for young adults to receive specialized skills training and establish a career. If drivers must wait until age 21 to drive commercial vehicles across state lines, they are likely to find alternative careers in the interim, decreasing the chances they will enter the trucking field.

FMCSA has also delayed the compliance date of its Entry-Level Driver Training (ELDT) program until February 7, 2022. The ELDT program is for drivers who are looking to obtain a Class A or Class B Commercial Driver's License (CDL) for the first time; to upgrade an existing Class B CDL to a Class A CDL; or to obtain a school bus (S), passenger (P), or hazardous materials (H) endorsement for the first time. Requirements of the ELDT dictate that participants must obtain their skills training through a verified third-party, but this requirement can increase the turnaround time to obtain a CDL.

As the deferred compliance date approaches, FMCSA should monitor the severity of the driver shortage and consider extending the compliance delay in six-month increments. Companies can train new drivers by using their own employees who hold a CDL. Conducting training internally shortens the instruction period because the sponsoring company does not need to rely on a for-profit third-party. They are not subject to the third-party's training schedule nor their potential lack of availability. Temporarily alleviating this requirement during the crisis would reduce the amount of time needed to obtain a CDL, and it would incentivize people to pursue the license as they could enter the workforce sooner.

Other transportation-related labor, such as longshoremen and port and warehouse workers are also in short supply. Providing additional funding for job training and vocational programs would help draw more people to this labor force. DOT could also offer employment incentives, such as hiring bonuses, pension plans, continuing education opportunities, etc. to

encourage more people to pursue these professions. Trades are an excellent way to build a career and should be promoted as a viable option to a wider swath of the public.

In addition, DOT should consider further exemptions from Hours of Service (HOS) rules under certain conditions. An emergency waiver was implemented by FMSCA to exempt drivers from HOS whose service was directly related to COVID-19 relief efforts.¹ Similar relief is needed to mitigate the supply chain crisis. Because of extreme port congestion, it is common for drivers to reach their HOS limits while waiting for delayed cargo to be unloaded – resulting in more congestion as other drivers must be found to transport these loads. HOS relief in congested ports would complement President Biden’s recent collaborative efforts with the West Coast ports, retailers, and other supply chain partners to expand port hours and commitments to move minimum amounts of containers.²

While NACD welcomes the efforts to keep ports open and to move goods out of these areas, it is essential that this initiative is not limited only to retail goods that are moved out of the ports, but that it also includes critical raw materials such as citric acid and chlorine. Ensuring that all supply chain players have the tools necessary to deliver their products to their customers is needed, especially when those customers are municipal water treatment plants or pharmaceutical manufacturers. Immediate relief is vital to ease supply chain bottlenecks; and while the U.S. government works to recruit additional qualified labor, it should leverage policy solutions like HOS exemptions, to lessen the strain. Further, funds could be allocated to ports, transportation companies, railroads, warehouses, and other supply chain members to support the extended hours for workers.

Infrastructure Modernization and Expansion

The U.S needs dedicated funding for hard infrastructure improvements. U.S. ports and the surrounding, related infrastructure and distribution centers require immediate investments. The existing operational capacity of U.S. ports lags behind the speed and capacity at which trade flows globally to and from the U.S. Additionally, expansion and modernization of this infrastructure will help ease the bottlenecks and chokepoints of the supply chain. Ports serve as an intermodal crossroads and hub for the transport of goods, and investments here will make our nation more competitive in the global marketplace.

Domestic Intermodal Chassis and Container Manufacturing

The lack of shipping supplies has severely impacted the American supply chain as well. Even when NACD member companies own and operate their own fleets of trucks and drivers, they have been unable to obtain even one chassis to move their product out from the ports. The factors contributing to the supply chain crisis are compounding one another. DOT should, in partnership with other federal agencies support the U.S. as a manufacturing base for intermodal containers and chassis.

Additionally, many companies rent their equipment; and during the crisis, individuals are holding onto the chassis instead of returning them within the normal window, which adds to delays. Incentivizing more groups to purchase their own equipment and reducing the reliance

¹ Expanded Emergency Declaration Under 49 CFR § 390.23 No. 2020-002 (Relating to COVID-19)

² The White House, “Biden Administration Efforts to Address Bottlenecks at Ports of Los Angeles and Long Beach, Moving Goods from Ship to Shelf,” whitehouse.gov, October 13, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/13/fact-sheet-biden-administration-efforts-to-address-bottlenecks-at-ports-of-los-angeles-and-long-beach-moving-goods-from-ship-to-shelf/>.

on rentals has the potential to free up shipping time. The overarching issue is that without these shipping materials, every supply chain suffers because they are physically unable to move product. The efforts to increase domestic manufacturing of intermodal shipping supplies, in tandem with infrastructure modernization and expansion, will make the American supply chain more resilient and increase its efficiency.

Data Standardization, Interoperability, and Transparency

Improved communication and supply chain transparency such as real-time tracking of containers to customers from ship to port, port to truck, port to rail, etc. would improve the movement of goods. Leveraging technological advancements would reduce the paperwork burden and streamline the shipping process. Expanding the interoperability of electronic data interchange (EDI) systems would improve the transition time between intermodal switching and prevent delays that incur additional costs.

Uniform Maximum Weight Standards

Another area that adds to delays in the supply chain is differing weight maximums across states. A standardization of weight maximums would increase supply chain efficiency. These standards exist to protect other drivers and the environment, reduce wear and tear on bridges, and manage road congestion; but the issue is that these limits can vary from state to state. This patchwork means that if a truck carrying 58,000 lbs. of goods enters a state in which the weight limit is 46,000 lbs., the container must be unloaded and redistributed amongst two separate trucks. This requires more drivers and additional equipment and causes further delivery delays. By standardizing weights, these additional costs and delays could be avoided.

Conclusion

NACD appreciates the opportunity to provide its input as DOT assesses the challenges faced by the freight and logistics sector. It is important for the U.S. to have a robust chemical supply chain, and alleviating the current chokepoints and bottlenecks is critical to its success. NACD supports the efforts of DOT to improve the movement of goods and is ready to serve as a resource as the agency works through this important problem.

If you have questions or require additional information, please do not hesitate to contact me.

Sincerely,



Jennifer C. Gibson
Vice President, Regulatory Affairs
National Association of Chemical Distributors
1560 Wilson Blvd, Suite 1100
Arlington, VA 22209