Policy Challenges Facing Ag Retail-Distribution Industry

CPDA Summer Conference & Annual Meeting
Park City, Utah
August 21, 2019
• Educate, Advocate, Influence
• Networking & Services
• Freedom to Operate
• DC Help Desk
• Over 5,000 outlets and ~85% of crop input sales
• Suppliers, Regional & State Associations

“…the recognized voice of the retail/distribution sector by advancing, advocating and representing the interests of those who provide agronomic products or services used to enhance the production of agricultural crops in a competitive global environment.”

ARA Vision Statement
Responsible Ag as of 6/17/19

- Voluntary program owned by ARA and TFI started in 2014.
- Three-year certification to federal regulatory standards
  - Comprehensive audit – not just fertilizer
- 2417 retail sites enrolled, 157 terminal/warehouse sites
- 55% have been certified
- 2761 audits complete
- 67,364 issues completed
- Also available for farmer-owned assets
Top Policy Issues Impacting Ag Retail

- Crop Insurance
- Trade
- Transportation
- CFATS
- Pesticides
- Biostimulants
- Biotech Seeds
- Fertilizer
- Water Quality
- Tax Reform
Crop Insurance / Prevented Planting Payments
2018 and 2019 Natural Disasters
U.S. 2018 Billion-Dollar Weather and Climate Disasters

- Western Wildfires, California Firestorm Summer–Fall 2018
- Rockies and Plains Hail Storms August 6–7
- Southwest/Southern Plains Drought 2018
- Central and Eastern Tornadoes and Severe Weather July 19–22
- Northeast Winter Storm March 1–3
- Central and Eastern Severe Weather May 13–15
- Northeastern and Eastern Winter Storm January 3–5
- Hurricane Florence September 13–16
- Central and Northeast Severe Weather May 1–4
- Southeastern Tornadoes and Severe Weather March 16–21

This map denotes the approximate location for each of the 14 separate billion-dollar weather and climate disasters that impacted the United States during 2018.
This map denotes the approximate location for each of the 6 separate billion-dollar weather and climate disasters that impacted the United States from Jan–Jun 2019.
## Congressional Relief

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>$19 billion</strong></td>
<td>Total spending in natural disaster relief bill, which includes assistance to Puerto Rico and states affected by storms, flooding, and wildfires</td>
</tr>
<tr>
<td><strong>$3 billion</strong></td>
<td>For USDA disaster assistance to farmers to cover crop damage and unplanted acres</td>
</tr>
<tr>
<td><strong>$150 million</strong></td>
<td>For a USDA program that gives grants for rebuilding rural police stations, schools, and other facilities</td>
</tr>
</tbody>
</table>
2019 Prevented Planting

- ARA supported Senate Disaster Relief Supplemental Bill

- However, serious concerns with large numbers of farmers electing to take crop insurance prevent planting payments in 2019 led to ARA writing a letter to USDA Secretary Sonny Perdue
2019 Soybeans Crop Insurance
Final Planting Dates

Source: USDA's Risk Management Agency

All data is believed to be accurate but please check with a licensed crop insurance agent.
Economists at the University of Illinois estimate the prevent planting payout may be $3.6 billion this year, nine times more than last year and shattering the previous record of $2.2 billion in 2011.
2019 Prevented Planting Meeting with USDA Under Secretary Bill Northey
2019 Prevented Planting
ARA Considerations and Recommendations

• A single prevented planting date across multiple geographies and states is not sustainable.
• Best interest of the farmer, Ag retailer, and other parts of the value chain to have a second date as part of those contracts in the event of natural disasters.
• Encouraging farmers to alter their planting intentions drastically will have a significant detrimental impact on agricultural retailers and other businesses who serve farmers.
• Need sliding scale for prevent planting dates.
• Investigate other means of assisting the Ag retail-distribution supply chain for lost revenue either based on unsold crop inputs not able to carryover into next season or lost income based on natural disasters.
Trade
### Status of President Trump’s major trade actions

**United States-Mexico-Canada Agreement (USMCA)/NAFTA renegotiation**  
*Countries: Canada, Mexico*

- **Implemented 1994-2008**  
- **Renegotiation**  
- **Agreement reached**  
- **Signed into law**

**US-Korea Free Trade Agreement (KORUS) renegotiation**  
*Countries: South Korea*

- **Implemented 2012**  
- **Renegotiation**  
- **Agreement in principle**  
- **Agreement updated Sept. 2018**

**Sect. 232 – nat’l security – steel & aluminum**  
*Countries: All countries  
Exempted indefinitely: Argentina, Brazil, Australia, South Korea, Canada, Mexico*

- **Announced**  
- **Investigation finished**  
- **Tariffs enacted**  
- **Retaliatory tariffs enacted**

**Sect. 232 – nat’l security – automobiles**  
*Countries: All countries*

- **Announced**  
- **Investigation finished**  
- **Tariffs enacted**  
- **Retaliatory tariffs enacted**

**Sect. 301 – unfair trade practices – intellectual property theft**  
*Countries: China*

- **Announced**  
- **Investigation finished**  
- **Tariffs enacted**  
- **Retaliatory tariffs enacted**

**Sect. 201 – harm to domestic industry – solar cells and washing machines**  
*Countries: All countries*

- **Announced**  
- **Investigation finished**  
- **Tariffs enacted**  
- **Retaliatory tariffs enacted**

---

*Sources: Congressional Research Service*
Overview of major trade actions under the Trump administration

- Updates to the US-Korea Free Trade Agreement (KORUS)
- Imposition of section 301 tariffs for IP violations and other unfair practices
- Withdrew from the Trans-Pacific Partnership (TPP) in January 2017
- Market deals on agricultural products with the EU, Japan, China, and Morocco
- Imposition of section 232 tariffs on Steel and Aluminum
- US labeled China as a currency manipulator in August 2019
- Imposition of section 201 Tariffs on solar cells and washing machines
- US threats of imposing section 232 tariffs on automobile imports

Key actors in US trade policy, negotiations, and implementation

**Donald Trump**  
*President*

**Mike Pompeo**  
*Secretary of State*

Plays a role in trade policy and promotion, particularly through the Bureau of Economic and Business Affairs.

**Robert Lighthizer**  
*US Trade Representative*

The office of the USTR, housed in the Executive Office of the President, is responsible for setting and implementing trade policy.

**Stephen Mnuchin**  
*Secretary of the Treasury*

Responsible for enforcing US tariffs and other trade laws, as well as economic and trade sanctions on foreign countries.

**Peter Navarro**  
*Director of the National Trade Council*

Though not a member of the Cabinet, Navarro has served as an advisor to Trump on trade and has crafted many elements of Trump’s trade policy.

**Wilbur Ross**  
*Secretary of Commerce*

Implements laws related to trade promotion, access to foreign markets, unfair trade practices, and more.

**Larry Kudlow**  
*Director of the National Economic Council*

Serves as a top advisor to Trump on a variety of issues, including the ongoing trade conflict with China.

**Sonny Perdue**  
*Secretary of Agriculture*

Responsible for monitoring trade agreements, participating in trade negotiations with a focus on agriculture, and dealing with WTO issues related to trade.

Sources: Washington Post, Federal Register, US Trade Representative, the Atlantic, USDA, Fox Business.
Trump is increasingly relying on himself—not his aides—in trade war with China.
“I've read hundreds of books about China over the decades. I know the Chinese. I've made a lot of money with the Chinese. I understand the Chinese mind.”

— Donald Trump, The Art of the Deal
Great discussion with Prime Minister @BorisJohnson today. We talked about Brexit and how we can move rapidly on a US-UK free trade deal. I look forward to meeting with Boris this weekend, at the @G7, in France!

7:55 PM · Aug 19, 2019 · Twitter for iPhone
14,9K Retweets 62.8K Likes

As they have learned in the last two years, our great American Farmers know that China will not be able to hurt them in that their President has stood with them and done what no other president would do - And I'll do it again next year if necessary!

Donald J. Trump · @realDonaldTrump · 4h
17.2K Retweets 12.2K Likes 55.4K Likes

We are doing very well with China, and talking!

Donald J. Trump · @realDonaldTrump · 2:27 PM · Aug 18, 2019 · Twitter for iPhone
14.6K Retweets 84.9K Likes

Massive amounts of money from China and other parts of the world is pouring into the United States for reasons of safety, investment, and interest rates! We are in a very strong position. Companies are also coming to the U.S. in big numbers. A beautiful thing to watch!

Donald J. Trump · @realDonaldTrump · 5h
10.4K Retweets 12.2K Likes 50K Likes
The US has run a trade deficit with its major trading partners in 2019

United States imports and exports of goods and services for top ten importers to the US
BILLIONS OF US DOLLARS, JANUARY-JUNE 2019

<table>
<thead>
<tr>
<th>Country</th>
<th>Exports</th>
<th>Imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>$179.6</td>
<td>$158.1</td>
</tr>
<tr>
<td>Canada</td>
<td>$158.1</td>
<td>$148.6</td>
</tr>
<tr>
<td>China</td>
<td>$129.3</td>
<td>$148.6</td>
</tr>
<tr>
<td>Japan</td>
<td>$52.0</td>
<td>$72.9</td>
</tr>
<tr>
<td>Germany</td>
<td>$36.8</td>
<td>$30.4</td>
</tr>
<tr>
<td>Korea, South</td>
<td>$39.2</td>
<td>$28.3</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>$31.0</td>
<td>$34.1</td>
</tr>
<tr>
<td>France</td>
<td>$29.7</td>
<td>$19.4</td>
</tr>
<tr>
<td>India</td>
<td>$26.0</td>
<td>$18.4</td>
</tr>
<tr>
<td>Taiwan</td>
<td>$15.3</td>
<td>$29.5</td>
</tr>
</tbody>
</table>

Sources: US Census Bureau
A brief overview of the US-Mexico-Canada Agreement

What is USMCA?

- A revised version of the North American Free Trade Agreement (NAFTA)
- Retains most of NAFTA’s provisions and adds provisions on new topics, such as digital trade and small and medium-sized enterprises
- Includes a required joint review and agreement after 6 years and, if no agreement, USMCA would expire 16 years later

What does it cover?

Includes 34 chapters and 12 side letters, laying out a free trade framework with key provisions on:

- Rules of origin for automobiles
- IP protections and digital trade
- E-commerce and data protection
- Labor & environmental standards
- Access to the Canadian dairy market
- Dispute settlement processes

Jan. 1, 1994
NAFTA

Jan. 1, 2008
Final tariffs removed

Aug. 16, 2017
Rules of origin for automobiles

May 31, 2018
IP protections and digital trade

Sept. 30, 2018
E-commerce and data protection

USMCA signing

What does it cover?

- Includes 34 chapters and 12 side letters, laying out a free trade framework with key provisions on:

Jan. 1, 1994
NAFTA

NAFTA goes into effect; tariffs gradually removed

Jan. 1, 2008
Final tariffs removed

Aug. 16, 2017
Rules of origin for automobiles

May 31, 2018
IP protections and digital trade

May 31, 2018
E-commerce and data protection

Round 1

US imposes tariffs on steel and aluminum imports

Sept. 30, 2018
Dispute settlement processes

Nov. 30, 2018
USMCA signing

Deal reached

Leaders sign the agreement at the G20 summit in Argentina

Sources: Congressional Research Service
Key elements of the USMCA

Rules of origin for automobiles
- All vehicles must be made with 75% North American content, up from 62.5% under NAFTA
- 40%-45% of each automobile must be made by workers making at least $16/hour

Canadian dairy market
- Canada removes its “Class 7” pricing scheme for ultra-high filtration milk
- US producers gain access to 3.59% of Canada’s dairy market
- Canada largely maintains its supply-management system

Intellectual property rights
- 10 years of data exclusivity for biologic pharmaceuticals
- Increase of copyright term to 70 years
- Internet Service Providers must take down content if they discover infringements (Canada exempted)

Labor and the environment
- Requires countries to adopt the ILO’s Declaration of Rights at Work
- Requires Mexico to enact new collective bargaining statutes
- Each state commits to enforce its environmental laws, and not to derogate in order to increase trade

E-commerce and data protections
- Prohibits cross-border duties on electronically-transmitted products
- Limits requirements on source code disclosures
- Allows free flow of data by restricting data localization requirements

Dispute settlements
- Maintains NAFTA’s state-to-state mechanism for most disputes
- Eliminates the investor-state dispute settlement (ISDS) for Canada
- Retains the ISDS for Mexican oil, natural gas, power generation, infrastructure, and telecommunications sectors

Sources: Congressional Research Service
USMCA timeline: After submitting to Congress

- Introduce implementing bill
  No deadline, but once submitted Congress must pass or deny the bill within 90 legislative days (could have been 6/29/19, but has not yet occurred)

- House Ways & Means Committee must report bill (45 days)*
  House must vote on bill (15 days)

- Senate Finance Committee must report bill (15 days)*
  Senate must vote on bill (15 days)

- President implements agreement by proclamation (No deadline)

- Bill signed into public law (No deadline)

*Under Trade Promotion Authority, Congress cannot offer amendments and the Senate cannot filibuster, unless the full House or Senate vote fails, and the bill loses TPA protections
Roadblocks to USMCA’s passage

**Sect. 232 steel and aluminum tariffs**
- House Democrats and Senate Finance Chair Grassley (R-IA) said tariffs needed to be removed on Canada and Mexico

**Tariffs have been removed**
- Canada and Mexico are exempted from all Sect. 232 tariffs, and they simultaneously lifted all retaliatory tariffs which heavily targeted agricultural products

**Labor and environmental standards**
- Democrats required more robust labor and environmental standards as a precondition of considering a revised NAFTA

**Democrats still wary of Mexico’s laws**
- Mexico’s legislature passed a bill allowing more collective bargaining, but Democrats are not sure if the government will enforce it strongly

**IP protections for pharmaceuticals**
- Provisions in USMCA would give 10 years of data exclusivity for biologic pharmaceuticals

**Democrats want to limit pharma patents to lower drug prices**
- Democrats would not be able to use this lever in potential future legislation
What are members of Congress saying about USMCA?

“As I reiterated to USTR Lighthizer, while there are positive things in this proposed trade agreement, it is just a list without real enforcement of the labor and environmental protections.”

— Speaker Leader Nancy Pelosi (D-CA)

“As currently drafted this deal will put Florida seasonal vegetable growers out of business. It allows Mexico to dump government subsidized produce on the U.S. market. Going forward America will depend on Mexico for our winter vegetables. Unacceptable.”

— Sen. Marco Rubio (R-FL)

“A significant roadblock is the administration’s tariffs on steel and aluminum and retaliatory Canadian and Mexican tariffs on U.S. products... If these tariffs aren’t lifted, USMCA is dead. There is no appetite in Congress to debate USMCA with these tariffs in place.”

— Sen. Chuck Grassley (R-IA), chair of the Senate Finance Committee

Sources: Speaker.gov, Wall Street Journal, Washington Examiner
Take Action

Tell Congress to Pass the United States-Mexico-Canada Agreement
“Since the implementation of the North American Free Trade Agreement … in 1994, our agricultural exports to Canada have increased 289% and our agricultural exports to Mexico have increased by 311% — creating our first and second largest export markets in 2018 worth a combined $41 billion out of $145 billion in total agricultural exports last year.”

- USTR Chief Agriculture Negotiator Gregg Doud
US Soybean Exports by Country 2017

Figure 1. U.S. soybean exports by destination market: 2017 (total exports, $21.6 billion)
Major US Crop Exports to China

Soybean exports down 74% from 2017

Source: USDA FAS Global Ag Trade System
Why the Fight?

- Industrial Policies & Intellectual Property Rights
- Services
- Trade
  - Ag biotech approvals, SPS, Inspections, Domestic Support, Export & Import Subsidies
- Transparency

In 2018, eight countries and the EU filed WTO dispute complaints against the Section 232 tariffs.

The countries have accused the US of imposing the tariffs “for reasons related to economic welfare and other factors” rather than for national security concerns as claimed by President Trump.

Sources: World Trade Organization, The Hill.
The Trump administration announced the first round of trade assistance on August 27, 2018

In response to US tariffs, China, Canada, Mexico, the European Union, and Turkey imposed retaliatory tariffs on US imports in 2018. The Trump administration issued payments to farmers to compensate for subsequent trade-related losses, largely under a program called the Market Facilitation Program (MFP).

Congressional approval for the MFP and its funding was not required, as statutory authority for USDA to issue trade assistance comes from the Commodity Credit Corporation (CCC), which borrows money from the Treasury.

The list of MFP-qualifying commodities initially included corn, upland and extra-long-staple cotton, soybeans, sorghum, wheat, hogs, and dairy. Later, shelled almonds and fresh sweet cherries were added.

MFP payments are subject to a $125,000 limit per farm, which is separate from other farm programs. Recipients were also required to meet income and conservation eligibility.

Sources: Congressional Research Service, Politico

$12 billion in total trade assistance pledged

Breakdown of USDA’s spending allocations

- $9.5 billion: Direct payments to farmers ($8.5 billion...)
- $1.2 billion: Purchasing...
- $0.2 billion:...
The first round of trade assistance was based on the extent of “direct damage” and calculated using 2017 production levels.

Groups representing these commodities in particular argued that their payment levels were insufficient for their industries.

- Soybean exports to China dropped from $12.2 billion in 2017 to $3.1 billion in 2018.

*Data for share of 2017 production affected by retaliatory tariffs was not available.

Sources: Congressional Research Service, CNBC.
Secretary of Agriculture Sonny Perdue announced a second round of trade assistance to farmers on May 23, 2019

The 2019 agricultural trade assistance will be modeled after the first round of assistance, with several key changes

When the Trump administration issued additional tariffs on $200 billion in imports from China, China responded by raising tariffs on $60 billion in US imports. Secretary Perdue had initially said there would not be another round of trade assistance, although this changed following the increased tariffs

$16 billion in total trade assistance pledged for second round

Market-distorting subsidy programs are in violation of World Trade Organization (WTO) rules if they total over $19 billion

Because of heavy flooding, fewer acres of corn and soybeans were planted this year; however, Secretary Perdue announced that USDA lacks the authority to compensate unplanted acres

China claims that the US’s trade assistance for farmers is market-distorting and therefore represents a violation of WTO rules

Unlike in the previous round of trade assistance, all commodities will receive the same level of payment per acre in 2019 trade assistance

Sources: Congressional Research Service, Reuters, Politico, USDA
China, the EU, Turkey, and India have continued to levy retaliatory tariffs on US agricultural products

Average retaliatory tariff increase as of June 2019, by country

- **European Union** — 24%
  - Vegetables, grains, legumes, fruit juice, peanut butter, whiskey

- **India** — 18.5%
  - Almonds, walnuts, lentils, chickpeas, apples

- **China** — 24%
  - Nearly all imports of US agricultural products

- **Turkey** — 29%
  - Rice, tree nuts, tobacco, whiskey

- **Canada and Mexico** — 0%
  - Both countries removed their tariffs in May 2019

Sources: Congressional Research Service
Transportation
In 2017, the ASCE estimated that the US would need $4.59 trillion by 2025 to maintain transportation infrastructure

### 2017 American Society of Civil Engineers’ report card on America’s infrastructure

<table>
<thead>
<tr>
<th>Sector</th>
<th>Grade</th>
<th>Sector</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviation</td>
<td>D</td>
<td>Ports</td>
<td>C+</td>
</tr>
<tr>
<td>Bridges</td>
<td>C+</td>
<td>Public Parks and Rec.</td>
<td>D+</td>
</tr>
<tr>
<td>Dams</td>
<td>D</td>
<td>Rail</td>
<td>B</td>
</tr>
<tr>
<td>Drinking Water</td>
<td>D</td>
<td>Roads</td>
<td>D</td>
</tr>
<tr>
<td>Energy</td>
<td>D+</td>
<td>Schools</td>
<td>D+</td>
</tr>
<tr>
<td>Hazardous Waste</td>
<td>D+</td>
<td>Solid Waste</td>
<td>C+</td>
</tr>
<tr>
<td>Inland Waterways</td>
<td>D</td>
<td>Transit</td>
<td>D-</td>
</tr>
<tr>
<td>Levees</td>
<td>D</td>
<td>Wastewater</td>
<td>D+</td>
</tr>
</tbody>
</table>

**Grading system**
- A: Exceptional/Fit for the Future
- B: Good/Adequate for Now
- C: Mediocre/Requires Attention
- D: Poor/At Risk
- F: Failing/Critical/Unfit for Purpose

**Qualifications**
- Capacity
- Condition
- Funding
- Public safety
- Innovation
- Operation
- Maintenance

Sources: American Society of Civil Engineers, 2017.
United States received D+ grade on infrastructure from the ASCE; the highest any state received is a C.

Federal funding for roads and highways

The Highway Trust Fund, established by the Highway Revenue Act of 1956, funds most federal government expenditures on highways and mass transit:

- Before 2008, the Highway Trust Fund’s revenue could cover its outlays through excise tax revenue.
- Since 2008, Congress has transferred $140 billion of general revenue dollars in order to meet spending obligations.
- Due to its outlays continually exceeding revenue, the CBO expects the Highway Trust Fund to have a negative balance after 2021.

Where did its revenue come from in FY18?

- $41 billion
  - in revenue from excise taxes
  - 87% of revenue comes from tax on gasoline and diesel fuel

- 25% of all public spending on roads and highways is funded by the federal government.

18.4 cents/gallon tax on gasoline
24.4 cents/gallon tax on diesel fuel

Democrats win back chairmanships of key House committees, while Republicans maintain control of the Senate

<table>
<thead>
<tr>
<th>Committee</th>
<th>Chair</th>
<th>Ranking member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senate Environment &amp; Public Works</td>
<td>John Barrasso (R-WY)</td>
<td>Tom Carper (D-DE)</td>
</tr>
<tr>
<td>Senate Commerce, Science &amp; Transportation</td>
<td>Roger Wicker (R-MS)</td>
<td>Maria Cantwell (D-WA)</td>
</tr>
<tr>
<td>Senate Banking, Housing &amp; Urban Affairs</td>
<td>Mike Crapo (R-ID)</td>
<td>Sherrod Brown (D-OH)</td>
</tr>
<tr>
<td>House Energy &amp; Commerce</td>
<td>Frank Pallone (D-NJ)</td>
<td>Greg Walden (R-OR)</td>
</tr>
<tr>
<td>House Transportation &amp; Infrastructure</td>
<td>Pete DeFazio (D-OR)</td>
<td>Sam Graves (R-MO)</td>
</tr>
</tbody>
</table>

Sources: National Journal research.
Potential 2019 infrastructure agenda items for Congress

There may be bipartisan support in the 116th Congress for increased spending on infrastructure projects

House Transportation and Infrastructure Committee priorities

1. **Increase infrastructure spending**
   - Democrats plan to promote a major infrastructure spending package, which will request significantly more funding than proposed by Trump in 2018
   - DeFazio has supported raising the gas tax to fund infrastructure projects, such as the Highway Trust Fund

2. **Expand broadband access**
   - A major infrastructure bill would include expanding broadband access for rural communities

3. **Improve freight efficiency**
   - The committee will conduct oversight to improve truck movement along key freight corridors and call for testimony from DOT officials about slow approvals of transit grants
   - Democrats opposed the EPA’s and DOT’s reversal of fuel efficiency standards for trucks and may push bills countering this

4. **Review trucking policies**
   - Areas of oversight include rules on hours of service, safety performances and commercial drivers’ detention time
   - Federal highway programs also need to be re-authorized before 2020

Sources: “Democrats to push infrastructure if they retake House,” Bloomberg News, Oct. 29, 2018; Eugene Malesu, “Incoming T&I Chairman Peter DeFazio: Freight Connectivity, HOS Priorities for Panel,” Transport Topics, Nov. 15, 2018

“It’s well past time for Congress and the Trump administration to get serious about our infrastructure needs.”

Chairman Peter DeFazio
(D-OR-4)
What is the Surface Transportation Reauthorization bill?

• Every 5 years Congress needs to reauthorize federal highway and public transportation programs, along with transportation research, intercity passenger rail, and other programs.


• Historically, all of the federal highway program and 80% of the public transportation program have been funded with revenues from the Highway Trust Fund (HTF), which comes from fuel, truck, and tire taxes.

• Federal gas tax rate is 18.3 cents while Diesel fuel tax rate is 24.3 cents, last raised in 1993 and do not adjust for inflation. HTF revenue and outlays not keeping pace with projected shortfall of $74.5 billion over future five-year reauthorization bill. Treasury general funds being used to cover gap.

• U.S. Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA) lead federal agency responsible for regulating and providing oversight over commercial motor vehicles (CMVs) and commercial truck drivers operating in interstate commerce. Includes Hours of Service (HOS) regulations.
Transportation Issues Impacting Industry

- Growing driver shortage
- Higher shipping costs (truck and rail)
- New regulatory compliance costs
- Lack of railroad competition and unreliable service
ARA Request to Congress

• Support legislation (H.R. 2440) that authorizes the Harbor Maintenance Trust Fund’s current $9 billion surplus to be used for dredging and waterway maintenance.

• Support legislation to 1) eliminate HOS ag exemption “planting and harvesting season” provision and 2) expand 150 air mile radius up to at least 200 air miles and potentially up to 300 air miles following FMCSA pilot program.

• Support immediately expanding all Short Haul operations exemption to 150 air miles.

• Support the “Drive Safe Act” (H.R. 1374 / S. 569) to create an apprenticeship training program for CDL drivers between ages 18 to 20 operating a CMV in interstate commerce.

• Support a pilot program for up to 10 states to participate in allowing for 91,000 lbs, 6 axle bridge formula compliant trucks to operate on federal interstate highways.
FMCSA Reform Proposals

• Hours of Service Proposed Rule Change
• Hours of Service Definition Changes
• Second Young Driver Pilot Program
Hours of Service Proposed Changes

- **Short-haul exception:** Lengthening the drivers’ maximum on-duty period from 12 to 14 hours & extending distance limit for drivers from 100 air miles to 150 air miles.

- **Adverse Driving Conditions:** Modify the adverse driving conditions exception by extending by 2 hours the maximum window during which driving is permitted.

- **30-minute Rest Break:** Increase flexibility by tying the break requirement to 8 hours of driving time without an interruption for at least 30 minutes & allowing break to be satisfied by a driver using on duty, not driving status, rather than off duty.

- **Sleeper Berth Exception:** The Agency proposes to modify the sleeper-berth exception to allow drivers to split their required 10-hours off duty into two periods: one period of at least 7 consecutive hours in the sleeper berth and the other period of not less than 2 consecutive hours, either off duty or in the sleeper berth. Neither period would count against the driver’s 14-hour driving window.

- **Off-Duty Break:** The Agency proposes to allow one off-duty break of at least 30 minutes, but not more than 3 hours, that would pause a truck driver’s 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift.
FMCSA is seeking public comment on revising agricultural commodity or livestock definitions in hours-of-service (HOS) regulations. Goal is to provide clarity for the nation’s farmers and commercial drivers.
HOS Ag Definitions cont.

• Issue for both definitions is whether they are too vague.
• For example, under “agricultural commodity” should sod be included?
• Is the term non-processed clear enough?
• For livestock, Congress amended “livestock definition” in the 2018 Farm Bill to include all live fish, llamas, alpacas, crawfish, and any other animals part of a herd (including dairy and cattle)
HOS Farm Supplies Definition

Farm supplies for agricultural purposes means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.
Second Young Driver Pilot Program

• Drivers ages 18-20 may currently only operate CMVs in intrastate commerce.

• In July 2018, USDOT announced the details of the Commercial Driver Pilot Program required under the Fixing America’s Surface Transportation (FAST) Act, which allows certain 18- to 20-year-olds with military training to operate CMVs in interstate commerce.

• FMCSA seeking input on the establishment of a second pilot program to allow non-military drivers ages 18-20 to operate CMVs in interstate commerce.
Railroad Challenges

• Decreased Competition
• Soaring Rates
• Service Issues
• Outdated Policies
Freight stations are captive when they have access to only one major railroad.

Source: Escalation Consultants; 2012
98% Increase since 2001

Down to 7 Major Railroads

26 Major Railroads

Average Rate Per Car

Source: AAR “Railroad Facts” | Rates are based on average revenue per car unadjusted for inflation (nominal dollars)
Groups participating in the Coalition include:

Agricultural Retailers Association
Agriculture Transportation Coalition
Alliance of Automobile Manufacturers
Alliance for Rail Competition
American Bakers Association
American Chemistry Council
American Farm Bureau Federation
American Fuel & Petrochemical Manufacturers
American Forest & Paper Association
American Malting Barley Association, Inc.
American Petroleum Institute
American Public Power Association
Associated Industries of Massachusetts
Association of Global Automakers
Chemistry Council of Missouri
Chemistry Council of New Jersey
Chemical Industry Council of California
Chemical Industry Council of Delaware
Chemical Industry Council of Illinois
Massachusetts Chemistry Technology Alliance
Michigan Chemistry Council
Motorcycle Industry Council
National Association of Chemical Distributors
National Barley Growers Association
National Cotton Council
National Farmers Union
National Grange
National Industrial Sand Association
National Industrial Transportation League
National Mining Association
National Pork Producers Council
National Rural Electric Cooperative Association
National Sorghum Producers
Nebraska Wheat Board
New York State Chemistry Council
Ohio Chemistry Technology Council
Ohio Manufacturers' Association
FOR IMMEDIATE RELEASE
May 22, 2019

ARA Testifies on Excessive Freight and Demurrage Charges, Urges STB to Hold Railroads Accountable

WASHINGTON, D.C. (May 22, 2019) – Today the Agricultural Retailers Association (ARA) testified before the Surface Transportation Board (STB) about excessive demurrage and accessorial charges against agricultural retailers and distributors.

ARA recommended that the agency allow for a more reasonable time frame (minimum 48 hours up to 96 hours) to load and unload shipments following shipping schedules created by the agricultural retailer and manufacturer as the current 24-hour time frame is too short. In addition, ARA recommended STSB require the railroads provide daily progress reports to the shipper and the receive so they know the exact location of the rail cards to increase compliance. Reciprocal demurrage charges should be imposed on the railroads to ensure commercial fairness and accountability.
How to Reform Rail Policies

• Enhance efficiency of the STB
• Allow Competitive Switching
• Update Rate Review Standards
• Allow Third Party Arbitration
Pesticide Challenges
Glyphosate

- IARC monograph (2015)
- EPA: “No meaningful risks to human health when the product is used according to the pesticide label.”
  - Consistent with NIH findings and those of every other pesticide regulator in the world
- Prop 65 case in California
- Civil suits – 13,400 filed and counting
## Glyphosate litigation

<table>
<thead>
<tr>
<th>Case</th>
<th>State</th>
<th>Alleged Harm</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johnson v. Monsanto</td>
<td>California (State)</td>
<td>Non-Hodgkins lymphoma</td>
<td>Original award of $289M reduced to $78.5M on appeal. Further appeal is likely.</td>
</tr>
<tr>
<td>Hardeman v. Monsanto</td>
<td>California (Federal)</td>
<td>Non-Hodgkins lymphoma</td>
<td>Award of $80M</td>
</tr>
<tr>
<td>Pilliod v. Monsanto</td>
<td>California (State)</td>
<td>Non-Hodgkins lymphoma</td>
<td>Award of $2.055B ($2B in punitive damages)</td>
</tr>
<tr>
<td>Gordon (+75) v. Monsanto</td>
<td>Missouri (Federal)</td>
<td>Non-Hodgkins lymphoma</td>
<td>Trial starts August 19, 2019</td>
</tr>
</tbody>
</table>
Monsanto Chianti Classico Riserva DOCG 2014 Rated 94 VM
Join us at the 2019 ARA Conference & Expo
NEW ORLEANS | DEC. 3-5
#AgRetailers19
Early bird rates end Oct. 15
REGISTER
Thank You!