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Submitted via [www.regulations.gov](http://www.regulations.gov)

Attention Docket # AMS-TM-21-0034

Dear Dr. Bailey:

Thank you for the opportunity to provide feedback to the U.S. Department of Agriculture (USDA) in response to the request for information as the department develops its report on strengthening the domestic food and agriculture supply chain as directed by President Joe Biden's executive order 14017 *America's Supply Chains* of February 24, 2021.

Since 1929, NCFC has been the voice of America's farmer-owned cooperatives. NCFC members include regional and national cooperatives, which in turn consist of nearly 2,000 local farmer cooperatives across the country. Farmer cooperatives – businesses owned, governed, and controlled by farmers and ranchers – are an important part of the success of America's agricultural supply chain.

NCFC has an extremely diverse membership, which we view as one of our sources of strength – our members span the country, supply nearly every agricultural input imaginable, drive innovation, develop new technologies, provide credit and related financial services, and market a wide range of commodities and value-added products. Our membership includes:

Marketing cooperatives – which handle, process and market virtually every commodity grown and produced in the United States.

*Representing the Business Interests of Agriculture*

Bargaining cooperatives – which bargain to help their farmer members obtain reasonable prices for the commodities they produce.

Farm supply cooperatives – those engaged in the manufacture, sale and/or distribution of farm supplies and inputs, as well as energy-related products, including ethanol and biodiesel.

Credit cooperatives – include the banks and associations of the cooperative Farm Credit System that provide farmers and their cooperatives with a competitive source of credit and other financial services, including export financing.

This breadth and diversity mean that farmer co-ops span the entire food and agriculture supply chain from the farm gate all the way to the grocery store aisle. Over the past 15 months, our members have been on the frontlines as the pandemic strained much of that supply chain to near the breaking point. Yet, thanks in large part to the hard work and sacrifice of millions of essential food and ag workers, American consumers had continued access to safe, affordable and nutritious foods.

At the same time, the pandemic exposed fragility in specific sectors of agriculture and pointed to potential weaknesses in any future crisis. Meat and poultry production has been the most obvious example. However, had COVID-19 been more transmissible or more deadly, or had government agencies and officials made slightly different decisions on the severity of lockdowns, international travel and trade, or definitions of essential businesses, it is highly possible that the supply chain would not have been able to meet the food needs of this country without significant disruption.

With this in mind, NCFC last year embarked on a project to assist its members as they assess how their businesses as well as their farmer-owners handled the crisis and prepare for future resiliency. To that end, NCFC partnered with Aimpoint Research, a global business intelligence firm with a focus on food and agriculture, to conduct an After Action Report (AAR) looking back on the pandemic response and a Resiliency Planning Exercise to look at strengthening supply chain operations moving forward.

The results of the AAR/Resiliency Planning project, along with other work that NCFC has done with Aimpoint to focus on the future of the food and agriculture sector, inform our comments to USDA below. Attached to these comments as an addendum is a 4-page executive summary of the project report. NCFC would welcome the opportunity to review in full this report with the department at your convenience. In addition, many NCFC member co-ops have provided the association with comments on USDA's request, which have also been incorporated here.

It also should be noted that the food and agriculture supply chain has been undergoing a profound transformation over the past decade and all indicators point to an acceleration of these changes. Consolidation at each link in the value chain has been the most obvious example. In developing its report, however, USDA should not ignore other trends, many of that are just becoming apparent, which could transform the value chain. These include a move towards direct-to-consumer sales by producers, either through farmers markets, internet sales, subscription services, or supply to regional food systems; the rise of distributed production through systems such as vertical and indoor farming; new advances in genetics; and the growing potential for biologics to replace or augment the use of chemical crop inputs. Finally, growing consumer empowerment and interest in the wider impact of food production likely will exert a growing influence on the supply chain in the decade to come.

### **Looking Back at the Supply Chain: NCFC & Aimpoint Research After Action Review (AAR)**

As noted above, the collaboration between NCFC and Aimpoint Research started with an After-Action Review (AAR)<sup>1</sup> to identify four core challenges that significantly affected the agri-food supply chain:

- Inconsistent Government Response
- Lack of Situational Clarity
- Insufficient Biosecurity Procedures and Equipment
- Disparate Crisis Leadership, Protocols and Systems

The report found that each of these challenges impacted every link in the supply chain in different ways as outlined below.

#### **Financial Services**

At the beginning of business closures, the financial services sector had to adjust to a new digital customer service model and learn quickly to navigate government programs that affected their customers (e.g., the Paycheck Protection Program (PPP)). They overcame those challenges by adapting existing credit lines and implemented their standing contingency plans.

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<sup>1</sup> Aimpoint Research conducted the After-Action Review (AAR) in coordination with NCFC from October 2020 to January 2021. Aimpoint Research gathered in-depth intelligence and conducted a survey of 199 agri-food industry leaders on challenges, actions taken, and remaining concerns. Commodities represented include soybeans, corn, wheat, fruits and vegetables, sugar beets, potatoes, barley, hemp, hay and forage, tobacco and other small grains and oilseeds. In addition, responses from the animal agriculture sector included the experiences of the poultry, pork, dairy, beef, and sheep and goat sectors.

Going forward, vulnerabilities that remain in this sector include the overall economic conditions (volatility), cyber security issues, and continued need to navigate government programs. This sector also has high exposure to the ethanol industry, which is expected to see dramatic declines.

### **Ag Inputs, Retail and Distribution**

The agricultural inputs, retail and distribution sector faced complicated supply chain disruptions and distribution delays. Businesses also had to adapt to a digital customer experience and major labor challenges with regards to both safety and absenteeism. This sector tackled those challenges by implementing technology and worker safety programs and increasing communication across supply chains.

This sector has also been experiencing challenges on issues such as transportation prior to the pandemic, and the past 15 months have only made these more severe. For example, trucking product across the U.S. is becoming cost prohibitive when imports can enter East Coast ports for significantly less than West coast produce. Last year it cost \$8/carton to ship produce versus now paying between \$12-15/carton for fresh fruit going to the East Coast. This has caused U.S. produced products being put at a disadvantage to imports on the East Coast.

Concerning indicators on farmer financials and bad debt exposure and a lack of diversity in supply chains also continue to be major vulnerabilities.

### **Farms, Ranches and Other Agricultural Operations**

Farmers were challenged primarily by processing delays/shutdowns and commodity market price fluctuations. And at a time when the world moved to rely heavily on digital communications and e-commerce, rural residents found themselves face-to-face with the long-standing lack of reliable broadband. Government funding and reduced spending on farm inputs helped them overcome some of those challenges.

However, vulnerabilities remain, including the lack of flexibility for many farms to rapidly respond to an unprecedented crisis and a general lack of sufficient risk management plans. Farmers also are facing significant ethanol demand loss moving into the future.

### **Processing**

Many point to processing as the most challenged sector of the agri-food value chain at the height of the Covid-19 response. Processors faced difficulty in keeping their workforce healthy and present, while also battling a patchwork of inconsistent government mandates and lack of personal protective equipment (PPE). They overcame these challenges by implementing new

operating procedures, relying on legal advice, and increasing collaboration with other supply chain sectors.

Looking ahead to future pandemic-like disruptions, significant vulnerabilities remain with a 'just-in-time' supply chain and consolidated/centralized meat processing system. They are still exposed to disease (human and animal) breakouts and are increasingly pressured to implement traceability and automation. Consumer trust is top-of-mind in making sure that if there is an animal disease or food-borne illness outbreak, or other food safety concerns that arise during a crisis, the issue can quickly be traced back to the source and the rest of the supply chain can continue functioning as normal in order to feed the population. It is critical that consumers can be confident that they are buying and consuming a safe product, especially during times of great uncertainty.

### **Food & Retail**

Food and retail faced an almost immediate shift in demand with food service and restaurants closed and the resulting increase of demand at grocery stores. They also saw a significant increase in demand for e-commerce and delivery services. This resulted in supply chain disruptions and out of stock issues. They managed this by leaning into online ordering and pickup systems and pivoting to take out.

The supply chain and regional distribution, as well as ongoing mandates, continues to identify major vulnerabilities. Our analysis also found that restaurants especially are exposed financially.

### **NCFC Member Survey Results**

NCFC recently conducted a survey of its membership to provide USDA with detailed feedback on how farmer-owned cooperatives were impacted during the pandemic. NCFC received 30 complete survey responses from co-op chief executive officers, presidents, farmer-owners and directors, general managers, vice presidents and other executive personnel. NCFC staff also conducted follow-up interviews with respondents to better understand the specific challenges they experienced during the pandemic. The responding co-ops spanned the agri-food value chain and nearly every region of the country. Several of the responses are detailed below and a more comprehensive report of the survey analysis can be found in the addendum.

### **Agri-food Value Chain Vulnerabilities**

Respondents were asked to identify what link in the agri-food value chain was, in their opinion, most vulnerable to a future crisis. Overwhelmingly, 48% believed the *Transportation and Distribution* link was most vulnerable, followed closely by 30% identifying *Processing*. Although

*Cyber Security* received a smaller share of concern, one follow-up interview with a CEO revealed that they believe cyber security should be top-of-mind for co-ops, given the recent attacks on JBS and the Colonial Pipeline. The CEO thought there could be a role for USDA to provide a consultative or supportive function, especially for smaller co-ops and agribusinesses.

### **Critical and Essential Inputs**

Several questions were asked of the respondents regarding critical and essential inputs, as this topic is a focus of USDA's RFI. Given the diversity of respondents, feedback was varied regarding input sourcing with 17% stating that most of their inputs are sourced internationally and 26.7% stating half, while 36.7% of respondents said they sourced the majority of product domestically and 20% of respondents source solely domestic product. There was a notable concern that some critical and essential inputs and those materials that are exclusively or dominantly sourced from nations that are, or could be, unstable or unfriendly, with 43% of respondents being concerned or very concerned.

Additionally, respondents were asked if a future crisis disrupted the supply chain and prevented their co-op from accessing critical materials and supplies, how long would their co-op be able to provide their customers or continue processing product, assuming a worst-case scenario. Concerningly, 73.3% of respondents said they could only continue operations for 4 weeks or less, 23% saying they could only continue for a few days.

### **Workforce Disruptions**

NCFC asked multiple questions pertaining to the pandemic's impact on the workforce and specific challenges that were experienced. Overall, 77% of respondents indicated that their co-op experienced issues with retaining a skilled workforce during the pandemic. NCFC member co-ops cited their struggles to find enough truck drivers holding a commercial drivers license (CDL). Co-ops also struggled to keep essential employees motivated to stay on the job by making sure safety was a top priority for workers while trying to maintain the same level of quality in the products and services customers expected. One-third of respondents mentioned high unemployment benefits as a barrier to keeping workers on the job.

Access to foreign labor during the pandemic was a significant hurdle for co-ops according to 57% of respondents who use workers on an H-2A or other temporary work visa. Most foreign workers employed by farmer owned co-ops come from Mexico, Central America and Africa, according to survey respondents.

## **Critical Transportation Systems and Food Channels**

NCFC asked survey respondents to rank which transportation systems are most critical to the functionality of the co-op's operations. Inland waterways, ports for importing inputs, ports for exporting domestic products, railways and the interstate highway system were ranked respectively from most important to least important. Over 73% of respondents indicated that their co-op experienced a disruption in critical transportation systems during the pandemic. Specifically noted were:

- Railcar shortages;
- Access to intermodal interchange equipment and tripled costs of incoming ocean containers;
- Port congestion causing delays, missed shipments, additional workload on depleted workforce and curtailment of manufacturing due to lack of product;
- Increased transportation costs;
- Truck driver shortages which dramatically reduced access, reliability and timely truck delivery;
- Difficulty in transporting livestock due to processing plant capacity; and
- Severe disruption at inland intermodal ramps, container depots and chassis yards.

As noted by survey respondents, ports across the U.S. experienced unprecedented congestion and container volumes during the pandemic, posing significant challenges for agricultural exporters seeking to deliver their products affordably and dependably to foreign markets. Since July, 2020, import cargo has flooded into the United States, in extraordinary volumes. The import volumes have overwhelmed marine terminals, particularly those on the West Coast – with Los Angeles and Long Beach being the most adversely affected. The terminals have become challenged due to:

- congestion in and around the terminals;
- lack of sufficient labor and automation to allow the marine terminals to load and unload efficiently;
- lack of information as to locations of containers, the times when they are available, ocean carriers' failure to provide accurate notice of arrival and departure;
- lack of appointments for truckers to enter terminal gates to retrieve import containers, or bring in containers with export cargo, or empty containers;
- carrier/chassis company agreements causing shortages of chassis to carry the containers in and out of the terminals;
- lack of capacity of near-port distribution centers to accept and process massive volumes of import cargo, thus import containers languish on terminals, at distribution centers or

storage locations, creating havoc for truckers trying to move containers back to the terminals or even out of the area; and

- terminals being so full they cannot accept the return of emptied containers, or containers loaded with exports.

Additionally, one of the great commercial challenges of the on-going pandemic have been the actions of some ocean container carriers in declining to carry agriculture export cargo, severely injuring U.S. agricultural exporters financially by preventing the industry from moving product to international markets. Instead of letting a container be loaded with agricultural products (often in rural areas), some ocean carriers are declining export cargo in favor of returning empty containers to Asia to quickly load U.S.-bound imports. This is driven by the increased disparity in freight rates that have resulted in the past year. Freight charges from Asia to the U.S. have been driven as high as \$10,000 to \$12,000 per container. This is compared to the \$400 to \$1,800 freight charges a typical export container carrying agricultural products earns.

In addition to challenges with transportation systems, many co-ops experienced a disruption in their typical food channels during the pandemic. Thirty percent of respondents said they sell products directly to either the food service or retail food channels, with two-thirds of those respondents indicating that their co-op experienced disruptions in those channels due to the COVID-19 pandemic. Respondents noted that there was a spike in retail business while the food service business dropped significantly; many of their food service customers, including schools, completely shut down for extended periods of time; and dairy product delivery to market was particularly disrupted due to packaging requirements, shelf-life and refrigeration constraints.

### **Regulatory Requirements and Guidance During the Pandemic**

The final line of questioning in the survey pertaining specifically to the COVID-19 pandemic asked if conflicting or duplicative regulatory requirements or guidance (such as local, state, or federal directives, or differing directives from multiple agencies) impeded the co-op's role in the supply chain—30% of respondents said “yes.” Examples provided by respondents included:

- Differing and conflicting state and federal agency guidance early in the pandemic;
- Critical decision-making significantly slowed due to impending guidance from relevant agencies;
- Lack of coordination between local, state and federal guidance; and
- Co-ops operating in multiple states or countries, or with employees who live and work in different states, forced to comply with different regulations depending on the location, making any type of company-wide response very difficult.

## **Preparedness for Future Crisis**

The next set of survey questions focused on farmer co-ops' preparedness for a variety of future crisis scenarios. Co-ops were asked a scalar question on how prepared (from Completely Unprepared to Completely Prepared) their operations would be in five different potential crises. These scenarios were:

- Disruption of the energy grid;
- Fuel shortage or pipeline disruption;
- Unforeseen, multi-state natural disaster;
- Wartime-like disruption of shipping; and
- Widespread, multi-state livestock or poultry disease outbreaks.

Most co-ops participating felt that they were best prepared for disruptions of the energy grid and fuel shortages/pipeline disruptions, with 60% saying they were at least somewhat prepared for both scenarios. Such relatively high states of preparedness likely were influenced by the Texas electric grid failures last winter and the fact that the Colonial Pipeline shutdown was ongoing at the time of the survey.

Co-ops were evenly split at 50/50 as to whether they were prepared for an unforeseen, multi-state natural disaster. Given that severe weather will likely increase as climate change continues, steps to increase supply chain preparedness for such disasters will be critical moving forward.

An even split also was seen in preparedness to deal with a widespread livestock or poultry disease outbreak, considering that many of the co-ops answering the survey had no direct (or in some cases, indirect) exposure to the livestock sector. 43.3% were at least somewhat prepared, 43.3% were at least unprepared, and 13.3% did not have livestock concerns. There was, however, a noticeable difference between dairy co-ops and beef cattle or hog co-ops, with the dairy co-ops reporting lower levels of preparedness for the scenario.

Finally, co-ops were least prepared for a wartime-like blockade of West Coast shipping. Indeed, none reported being completely prepared and only 10% reported being even somewhat prepared.

Beyond the survey, NCFRC believes that special consideration should also be given to long-tail risks that would significantly disrupt the agriculture supply chain due to the geographical concentration of certain critical and essential materials and services. For instance, according to information compiled by *Trade Data Monitor*, the active ingredients for 67% of herbicides, 43% of insecticides and 20% of fungicides are produced in China. This concentration poses unique

risks, due either to natural disasters, such as the Yangtze River flooding in 2020, or geopolitical disputes over China’s increasingly aggressive foreign policy.

Likewise, a large share of those inputs enter through ports in California (which also produces a substantial portion of this country’s fruit, vegetables, and nuts). Transportation system disruptions caused by a major earthquake along any of the state’s many fault lines could have severe impacts further down the food and agriculture supply chain.

## **Recommendations for Ensuring Supply Chain Viability**

As noted above, the second phase of NCFC’s collaboration with Aimpoint Research was to conduct a resilience planning workshop in conjunction with NCFC’s 2021 virtual annual meeting. Over 300 farmer cooperative CEOs, chairman, board members and senior managers participated in breakout meetings representing each link of the supply chain to conduct a resiliency planning exercise. Several broad themes were seen in recommendations across the supply chain, including ideas for greater policy and governmental coordination that inform our recommendations.

### **Contingency Planning**

#### **I. Continuity of the Food and Agriculture Supply Chain**

NCFC strongly urges USDA and other government agencies to develop a “continuity of the supply chain” plan to guide the response of federal, state, local and tribal governments—and to coordinate with stakeholders across the supply chain—in the event of a future crisis of a similar magnitude. Our work in both the AAR and Resiliency Planning indicated that inconsistent response by government at all levels was one of the top challenges faced by the agri-food supply chain over the past 15 months.

Much as the federal government’s Continuity of Operations plan is designed to ensure continuous performance of essential functions under a broad range of crises, a Continuity of the Food and Agriculture Supply Chain would help ensure the continued production and availability of a safe and nutritious food supply during future crises. Such a specific focus is warranted by the importance of maintaining the one basic need shared by all Americans.

Doing so would provide a roadmap for government agencies at all levels to address the unique impact that a range of potential crises would have on all links of the supply chain and would be ready to be deployed within hours, not weeks or months as we saw with

the last pandemic. In developing such a plan, we believe that two elements are essential and, even if a Continuity of the Supply Chain plan is not developed, should be implemented independently.

#### *Definition of Essential Food and Agriculture Businesses and Workers*

First, the definition of essential workers should be set forth by the federal government ahead of the next crisis to include all workers in the food and agriculture sector. Maintaining access and availability of food should be the government's top priority in any crisis along with the acknowledgement that the workers at each chain link in the supply chain—from the truck driver delivering fertilizer, to the farmer in the field, to the worker in a processing plant, to the grocery store shelf stocker—are critical to the viability of the entire supply chain.

As was seen in the early days of the COVID-19 pandemic, USDA will have a critical role to play in this definition. While the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) was responsible for defining essential workers and businesses, they lacked the knowledge of the interdependent nature of the agri-food supply chain. Without the expertise of USDA and the direct intervention of the Secretary of Agriculture, it is likely that CISA would have excluded large parts of the supply chain from their definition of "essential," resulting in even greater disruption than was seen.

#### *Government and Industry Collaboration to Establish a Unified Crisis Response Network*

Second, USDA should create a Unified Crisis Response Network to coordinate information sharing and crisis management across the entire food and agriculture supply chain. In both our AAR and Resiliency Planning, participants noted that one of the most critical problems in the pandemic was the lack of clarity and planning as situations evolved up and down the supply chain. One recommendation they made was the creation of this unified group of leaders—convened and coordinated by USDA—to represent the cross-functionality of the agri-food value chain to help drive policy, share information and aid in crisis decision making at the national level.

An example that may be informative is how DHS/CISA coordinated with crisis management experts in private industry and trade associations during the pandemic using the framework provided by the Emergency Support Function (ESF) 14, under the department's National Response Framework. During the first months of the pandemic, ESF-14 staff held twice weekly calls to provide information to state, local, tribal, private

sector, and NGO stakeholders, receive updates on conditions on-the-ground, and answer questions on a range of topics critical to the pandemic response and recovery. ESF-14 staff also used a secure, online dashboard to facilitate ongoing discussion and coordination for stakeholders where stakeholders could access real-time data relevant to the spread of COVID-19 by state, share information and ask questions. On the twice weekly calls DHS/CISA also coordinated guest speakers across a wide range of governmental departments to update stakeholders on pertinent responses to the pandemic.

The Unified Crisis Response Network should play a similar information sharing, coordination and collaboration role for the agri-food value chain in a crisis, with USDA not only building the infrastructure in preparation for the next pandemic that will impact the agri-food supply chain but conducting outreach and education about the network to food and agriculture stakeholders.

## II. Cybersecurity Implementation Assistance

In interviews with NCFC members, a consistent theme was that many co-ops, even ones that would be considered significant in terms of size, lack the resources and expertise to implement cybersecurity practices on their own. Hence, a further recommendation is that USDA develop a program to connect producers and agribusinesses with resources on protecting critical infrastructure from cyberattacks. Such a program could connect agriculture with resources provided by DHS/CISA while also utilizing USDA's understanding of the unique vulnerabilities and needs of the agri-food supply chain to ensure that recommendations are tailored and meaningful for the sector.

### **Rural Broadband Connectivity**

Broadband connectivity is a critical enabler to help solve many issues facing our country including climate change, inclusive education access for students and families, better paying jobs, and more balanced economic opportunities. According to the Federal Communications Commission's (FCC) latest broadband deployment report, 14.5 million Americans lack internet connectivity. However, a BroadbandNow study released in February 2020 estimates that as many as 42 million Americans do not have the ability to purchase broadband internet.

An FCC report from 2017 estimates it would cost \$80 billion to bring high-speed internet to the remaining parts of our country that do not have access. In 2019, the U.S. Department of Agriculture (USDA) issued a report, citing Deloitte data, that estimated it would require

“between \$130 and \$150 billion over the next five to seven years, to adequately support rural coverage and 5G wireless densification.”

Broadband connectivity connects farmers and ranchers to today’s online markets. Without connectivity, rural communities can be cut off from domestic and international supply chains. Given the high number of communities lacking internet access, digital connectivity is a direct need for supply chain resilience.

## **Labor & Workforce Issues**

### I. On-Farm Labor Shortage

America’s farmers have faced an onslaught of challenges: the COVID-19 pandemic, catastrophic weather events, retaliatory tariffs in our top export markets, and falling commodity prices and farm income just to name a few. However, the domestic labor shortage remains one of their greatest challenges, impacting farmers today and jeopardizing the future of American agriculture. Farmers cannot grow and create jobs, unless they know they will have workers, today and tomorrow, to help with the harvest, care for livestock, and ultimately, feed the world.

This crisis has been building for many years, despite the best efforts of farmers. Even offering substantially more than minimum wage to attract more workers has not solved the problem. In many cases, it is not the money that makes these jobs unappealing to many Americans. Rather, the main factors are the seasonal, often transitory, and difficult nature of the work.

Existing guest worker programs like the H-2A program could, in theory, offer an avenue to find workers. Unfortunately, the program is deeply flawed and in need of significant overhaul to meet the current needs of agriculture. In particular, the program is limited to seasonal farm work. Producers who need employees year-round—such as dairy, livestock and horticulture—cannot utilize the program.

While the current seasonality requirements prevent year-round producers from being able to access the program, other producers find the cumbersome application process and added expenses associated with using the H-2A program a hindrance as well. Requirements to provide free housing and transportation and pay the Adverse Effect Wage Rate, an inflated wage rate based on a flawed survey, result in added input costs that many farmers cannot sustain.

Further, many of the existing 1-2 million on-farm employees—estimated between 50 and 70 percent—are not legally authorized to work in the U.S., though many of these workers show farmers documents that look genuine. Failing to provide a way to stabilize over half of the ag workforce would be detrimental to the entire industry.

Each of the 1-2 million hired farm employees working on American farms and ranches supports two to three full-time jobs further down the value chain in food processing, transportation, farm equipment, marketing, retail, and other sectors. Many of those jobs would be severely compromised or permanently lost if we choose to unnecessarily outsource our agricultural productivity.

Food in grocery stores today, particularly in labor-intensive agriculture, will be harvested by someone not born in the U.S. However, we have the ability right now to decide whether that food is grown and harvested in the U.S. under our food safety and worker protection standards or in some other country where we have no control over those standards.

Farmers and ranchers are desperate for Congress and the administration to address agriculture's workforce needs. Smart reforms to the immigration system can ensure that American agriculture has a legal, stable supply of workers, both in the short- and long-term for all types of agriculture. Such a solution requires legislation that provides stability to our labor force through legal status for the current, experienced agricultural workforce, and that ensures future needs are met through reforms to the H-2A program that will support the sustainability and viability of American agriculture. More specifically, we need:

- a mechanism for qualifying farmworkers to continue working in agriculture without disruption and/or earn legal status to work and/or reside in the United States based on agricultural work experience and commitment; and
- to recognize the importance and provide a mechanism to protect immediate family members from deportation, which is critical to ensure that undocumented farmworkers come forward to seek proper work authority; and
- to provide a flexible and efficient agricultural worker visa program that includes availability to all agricultural producers without regard to the temporary, seasonal, or year-round nature of the job; a fair, predictable, and economical approach to wages and benefits that does not unduly impede U.S. competitiveness; flexibility in the length of visas to address the needs of different

agriculture sectors; mobility; and ability to meet any future industry production expansion labor needs without arbitrary limits.

## II. Improving the Existing H2-A Program

Without question, legislative action is critical to ensuring a legal and stable workforce for the entire agricultural industry. While we wait for that to happen, some specific regulatory reforms should be put forward to provide relief to H-2A users.

### Definition of Agriculture

NCFC recommends that the definition of agricultural labor or services should explicitly include the trucking of an agricultural commodity from the field to its processing facility, regardless of whether that activity is performed by a farmer, a farm employee, a farmer-owned cooperative, or the employee of a farm labor contractor (FLC) employed by the farmer for this purpose. Farmer-owned cooperatives are an extension of the farmer, and therefore should not be treated differently than farmer employers under the H-2A program.

Harvest of an agricultural crop is not completed with the picking of fruit from the tree nor cutting of the cane in the field. The crop must be transported from the field to the packing shed, the mill, the cotton gin or the grain elevator, for the crop to be prepared for market.

NCFC also strongly recommends that the presumption against dairy and other year-round agriculture be removed due to the nature of the need for the job and recognize the U.S. Citizenship and Immigration Services (USCIS) definition of temporary as up to 12 months.

NCFC believes that dairy, and all other year-round agricultural employment such as pork, beef, mushrooms, poultry, greenhouse, etc., should be determined to be eligible to participate in the H-2A program. Consumer demands, weather patterns, and innovations in technology are constantly evolving. Farmers have responded by diversifying their operations and introducing plant varieties with longer growing seasons. They adhere to a principle of continuous improvement and an incessant pursuit of greater efficiency. These activities do not just begin and end with the growing season. Many in agriculture need labor on the farm year-round in order to keep their farms in business.

Specific to the dairy industry, the majority of U.S. dairy operations use production standards that make it challenging for jobs to be seasonal. Dairy cows are milked two to three times a day, 365 days a year. Identifying qualified milkers is a priority and a challenge for dairy operations. To ensure a consistent supply of milk for processing and marketplace consumption, most dairy farms have worked to smooth out the production peaks and valleys of their operations. For example, dairy farms try to maintain a steady calving calendar so that the number of cows milking at one time is near constant and therefore so is their operation's milk production.

However, there are quite a few jobs that are associated with a diversified dairy operation that have a peak need during the year, including manure hauling, and crop planting and harvesting in the pre- through post-growing seasons. To maximize the beneficial use of the H-2A visa program, we support flexibility being incorporated into the H-2A seasonal visa program so that H-2A workers can, in a de minimus capacity, address the farm's labor needs when there is minimal work to do associated with the work order.

NCFC recommends the definition of agricultural labor or services be amended to read as follows:

Section 101(a)(15)(H)(ii)(a) is amended to read:

"having a residence in a foreign country which the worker has no intention of abandoning who is coming temporarily to the United States:

(1) to perform agricultural labor as defined in Section 3121(g) of the Internal Revenue Code of 1986, notwithstanding the provisions of (g)(4)(a) or (g)(4)(b); or

(2) to work in agriculture as that term is defined in Section 3(f) of the Fair Labor Standards Act, notwithstanding that such work can be performed by someone other than the farmer off a farm, if such work is being performed at the direction of and as incident to or in conjunction with the farmers' farming operation; or

(3) to perform agricultural labor or services for an agricultural employer, as that term is defined in Section 3 of the Migrant and Seasonal Worker Protection Act, and including agricultural cooperatives, notwithstanding the limitations in (8)(B)(ii) and (10)(B)(iii) in that section; or

(4) to perform in agricultural employment as that term is defined in Section 3 of the Migrant and Seasonal Worker Protection Act; or

(5) to work in aquaculture activities including the primary processing of fish or shellfish; or

(6) the pressing of apples for cider on a farm; or

(7) logging employment.

Section 218(i) is amended:

Definitions

For the purposes of this section and Section 101(a)(15)(H)(ii)(a):

(2) "temporarily" means a period of initial admission of less than one year,

### III. H2-A Wages

Wages in agriculture are very competitive. In fact, farm worker wages are on average almost double the federal minimum wage. According to a 2019 USDA-NASS farm labor survey, the national average field and livestock workers wage was \$13.99 an hour. History has proven that even higher wages do not produce enough U.S. farmworkers to meet the demand. Farmers are required to recruit American workers before turning to guest workers, and the increasing use of the guest worker program demonstrates year-after-year that very few Americans apply for, accept, and perform these jobs.

Under the requirements of the H-2A program, employers are required to pay workers and those in corresponding employment the Adverse Effect Wage Rate (AEWR) in addition to providing free housing and transportation to workers. Each year, the Department of Labor publishes the new AEWR which is based on survey data from the previous year. For 2020, farmers' labor costs increased by an average of 6% while revenues for agricultural goods continue to diminish. This 6% increase is just the nationwide "average" for 2020. In many parts of the country, farmers will be forced to absorb increases of nearly 10%, and some of those same farmers experienced increases of more than 22% just one year ago. These AEWR increases far outpace the average wage growth experienced across the broader U.S. economy during the same two-year span.

The Department of Labor and the AEWR calculation fails to consider the agriculture industry's capacity to absorb additional costs when it implements annual changes to the AEWR. For example, over the last five years the national average AEWR has increased by

17% while revenues for fruits and nuts have only increased 3%, and revenues for vegetables and melons have not increased at all.

IV. Prioritization of H-2A Processing

Finally, within the H-2A program—or any future agricultural guest worker program Congress may enact—USDA should urge that the State Department and the Department of Homeland Security proactively embed back-up processes and systems for approving guest worker visa applications in any crisis. Further, given the critical role that these workers play in securing the nation’s food supply, we urge that visas for these workers be prioritized over other applications in a future crisis.

V. Unemployment Insurance/Benefits for Returning to Work

Beyond the farm gate, other parts of the food and agriculture supply chain have also experienced difficulties finding workers across their operations. One consistent concern voiced in the NCFE member survey was the impact that enhanced unemployment benefits could be having on the labor market.

Certainly, economic disruption caused by the pandemic and the ensuing shutdown of large parts of the economy warranted an aggressive response to help Americans who lost their jobs through no fault of their own. We recognize that enhanced unemployment benefits provided a lifeline for many Americans and helped contain both the economic and human cost of the pandemic.

However, we urge that in any future crisis, enhancements or “plus up” to the unemployment insurance system meant to address temporary, time-limited disruptions of the employment market have a more proactive mechanism to taper the additional benefits (i.e., those beyond normal unemployment benefits) as the economy and the employment market improve. This could be linked to the Bureau of Labor Statistics (BLS) data series on the unemployment rate or job openings.

In addition, the federal government should look to innovative approaches taken at the state level to incentivize a return to work for those who have been displaced by the pandemic. For example, several states have announced return-to-work bonuses of up to \$2,000. Beyond a purely financial incentive for taking a job, such bonuses can also address barriers some face when leaving the unemployment rolls, such as the need to arrange transportation or childcare before they receive a first paycheck.

## VI. Worker health/safety - Personal Protective Equipment (PPE)

Agricultural employers continue to do their best to provide a safe workspace for employees. Indeed, if workers in the food and agriculture sector are to be considered among the most essential of essential workers, ensuring their health and safety to the greatest extent possible is critical. The pandemic exposed a critical gap in PPE capacity in the U.S. The necessary equipment needed to protect food and agricultural workers was often the same as what was needed for frontline healthcare workers. Domestic manufacturers of PPE worked hard to help bridge the gap but there were major shortfalls in proper allocation and transportation of the equipment. One recommendation is to provide incentives to manufacture more PPE here in the U.S. using homegrown cotton instead of relying on offshore sourcing during a future pandemic.

Measures such as increased health and safety mandates can eat into the bottom line of producers and processors already operating on tight margins. For example, because of social distancing precautions and state mandates, many farmers arranged for additional buses to transport their workers more safely, making significant changes to farm worker housing, or acquiring temporary housing to provide a safe space for those who tested positive or who may have been in contact with the virus. These practices can be very costly to implement on top of the already high housing costs. Additional measures, including installing plastic dividers between workers where appropriate, organizing workers into smaller employee “working pods,” and shutting down production for more frequent sanitizing, also take a monetary toll on the industry. Any economic relief package passed by Congress for a future crisis should include funding to assist businesses in essential industries implement needed precautions to protect their employees.

### **Processing & Distribution**

USDA and other agencies should also look at ways to enhance and strengthen the resilience of the processing link of the supply chain. Given the prevalence of farmer co-ops in the dairy industry, NCFE has several recommendations impacting that sector.

The dairy sector faces a unique circumstance in any crisis. First, a greater share of dairy products than other commodities go into the food service channel for distribution to the end consumer. Second, the continuous nature of dairy production means that there is a constant supply of milk entering the production channel throughout the year. And third, the perishable nature of milk

means that it needs to be processed relatively quickly and even many processed dairy products have a short shelf life compared to other food products.

Conversion of production lines to ones able to process and bottle shelf-stable dairy products should be a priority in any federal policies to address supply chain resiliency. In order for a processing plant to switch from a conventional milk line to an extended shelf life (ESL) line, the estimated cost would be between \$10 and \$12 million per line. Although this option is an ideal alternative to dumping large quantities of fluid milk with nowhere to go in the supply chain, the exorbitant cost of doing this is prohibitive for processors already in the face of a pandemic. USDA could provide low interest loans or grants to help processing facilities adapt or retrofit conventional lines to ESL lines. This would address the unique challenges faced by the dairy industry noted above, giving the sector the ability to process milk either for diversion to other supply outlets or for storage until traditional outlet channels return.

While shelf-stable dairy is common in many countries around the world, they are less commonly available in the U.S. USDA should work with the dairy industry in developing a consumer education campaign on the benefits and attributes of shelf-stable dairy products.

Another outlet for dairy products, even those that are not shelf-stable, are food pantries and feeding centers. As experiences during the pandemic have shown, however, many of these facilities lack adequate cold storage capacity to handle the volume of perishable products available and desirable to the users of the facility. Additional funding should be made available to food pantries and similar facilities to purchase commercial cold storage equipment and retrofit their facilities to be able to use them.

### **Buy American Provisions**

In its request for comments, USDA recognized that one of the best ways to secure the agri-food supply chain is to ensure domestic production capabilities. The Department already has an excellent tool at their disposal when it comes to commodity purchases for certain nutrition programs—the “Buy American” provisions that are included by statute in the National School Lunch and Breakfast Programs.

In recent years, however, we have seen a marked increase in the amount of foreign-produced food served under the school lunch and breakfast programs when comparable American-grown products are readily available and competitively priced, something that is contrary to the intent of the Buy American provisions.

As an example of the problem, in the past few years research has found that:

- 81 percent of apple juice served in U.S. schools is imported;
- 50-60 percent of the fish served in schools are caught by Russian ships and processed in China;
- 26 states, including the two largest peach growing states of California and Georgia, serve Chinese canned peaches to students.

Sourcing non-U.S. foods—even when competitively priced domestic alternatives are available—not only runs counter to the law, but weakens the agricultural supply chain and the ability of this country to feed its citizens in a time of crisis.

We strongly urge USDA to vigorously enforce existing “Buy American” requirements in school nutrition programs and to work with Congress to strengthen these provisions as child nutrition reauthorization legislation advances in the coming year.

### **Transportation & Infrastructure**

Improving our nation’s transportation infrastructure must be a national priority that deserves urgent attention. Capacity constraints, structurally deficient bridges, deteriorating roads and locks and dams that are long past their expected useful life require the necessary investment to efficiently move the country’s freight now and into the future.

The U.S. agricultural sector is the largest user of the freight transportation network, accounting for roughly 30 percent of all freight transportation services provided in the U.S. With the primary agricultural production located in the interior of the country, far from the ports that link to the international trade economy, transportation is critical to the competitiveness of the U.S. agriculture in world markets. For example, the U.S. exports a significant percentage of the grain it produces—including 20 percent of the corn and roughly half of the soybeans and wheat—nearly all of which is barged or railed to a port.

Currently, all modes of transportation are facing congestion, constrained capacity, and equipment shortages. Given projections that the nation’s freight tonnage will increase significantly over the next decade, railroads, highways, inland waterways, and ports all will be challenged to efficiently handle greater volumes.

During the early stages of the COVID-19 pandemic, various supply chains experienced major disruptions, including the food and agricultural supply chain, whose employees and transportation providers have been designated as essential critical infrastructure workers under guidance from the DHS/CISA. The critical importance of a strong transportation infrastructure

and flexible transportation policy was reinforced as the food, agricultural and transportation sectors worked to transform and adapt their supply chains to ensure essential products continued to be available when and where they were needed.

But more needs to be done to institutionalize the lessons learned during the early stages of the pandemic concerning transportation policies that are essential to ensure resiliency of the food and agricultural supply chain. We respectfully offer for your consideration the following recommendations for the major freight transportation modes as well as improving our port infrastructure.

#### I. Trucking & Driver Shortages

We offer the following recommendations regarding motor carrier transportation:

##### Exemptions

Exemptions to hours-of-service (HOS) rules remain vitally important to the food and agriculture sector given surges in trucking capacity that are needed for various reasons throughout the year. These include the need to accommodate seasonal spikes in transportation of food, fiber, and other agricultural supplies to facilitate the growing, harvesting, processing and distributing of food and agricultural products. Since its inception in 1995, the agricultural exemption has provided for such flexibility. Given the strong safety record of the U.S. agricultural trucking sector, Congress and the FMCSA periodically have modified policies to enhance its usefulness to help ensure a more efficient and cost-effective freight transportation distribution system.

We urge four more important incremental changes to the agricultural exemption to the HOS rules [C.F.R. 49, sec. 395.1(k)] to help our sector meet seasonal spikes in transportation of food, fiber, and other agricultural supplies.

- First, we recommend eliminating the “planting and harvesting periods” requirements to ensure uniformity within all states. Most states already have adopted a year-round agricultural exemption (Jan. 1 – Dec. 31) given the diverse range of crops and modern agricultural practices that result in truck movements throughout the year.
- Second, we urge providing a 150-air-miles exemption from HOS regulations on the back-end of truck movements for those transporting agricultural commodities. This would build on the current exemption for the beginning of hauls at the “source” and simply would add the term “destination.” Originally,

the front-end exemption was put in place to give farmers and ranchers extra time to navigate rural roads safely and slowly, which frequently are minimally maintained and have significantly slower travel speeds. This change also would avoid penalizing drivers for doing their job safely in remote areas away from major highways, as well as to provide for proper animal health and welfare practices for livestock being transported.

- All the identified concerns (rural roads, slower travel to achieve safety, and slower animal handling to achieve safety and animal welfare) also exist at the destination of a haul. Destination feed yards and pastures often are in areas just as remote as source pastures and sale barns. In addition, processing facilities typically have long lines and demand the same need for slow and careful animal handling. This language also would address the very real concern of those who come close to their destinations and then “run out of time,” forcing them to leave livestock on their trailers while only being a short distance from their destination. This is impractical, illogical, and detrimental to animal welfare.
- Third, we request the inclusion of an FMCSA pilot program for transporters of farm supplies who would be allowed to operate under an expanded air-mile radius where the agency can collect data from participating agribusinesses over a multi-year period to confirm there are no adverse impacts on transportation safety. Farm supply transporters continue to be adversely affected by industry consolidation and driver shortages.
- Fourth, we support finalizing the FMCSA’s interim rule updating the definition of an agricultural commodity for purposes of determining eligible freight for the agricultural exemption. We believe the updated definition appropriately covers current agricultural products and allows for continued evolution of any agricultural commodities in the future.

## II. Truck Driver Shortages

Supply chains for consumer, industrial, and agriculture businesses need to move more supplies in a short amount of time and in higher volumes as the U.S. economy reopens. As many supply chains are behind in shipping as the economy reopens for the summer, trucking demand is outpacing the supply of available drivers. In fact, industry statistics indicate 25-30 percent more truckers are needed to meet demand.

Federal-level commercial driving license (CDL) restrictions on drivers aged 18 to 20 create an obstacle to recruiting a new generation of drivers into the industry. Forty-nine states and the District of Columbia allow 18- to 20-year-old CDL holders to operate in

intrastate commerce. We request your support of pathways for CDL holders aged 18-20 to drive on the Interstate Highway System and drive across state lines to help remove the constraint posed by this obstacle to recruiting drivers. The Federal Motor Carrier Safety Administration's ( FMCSA) proposed pilot project to allow drivers 18-20 years old to operate commercial motor vehicles in interstate commerce contains many concepts from the DRIVE SAFE Act to increase safety and we encourage FMCSA to continue the pilot.

Another potential solution to add more workers to the job market would be to allow U.S. military members who are trained to drive heavy vehicles gain federal (interstate) CDL's.

The federal government should also emphasize the role that community colleges across the country can play in promoting transportation sector training to a diverse group of future employees.

### III. Truck Weight Limits

Truck deliveries are critical to keeping supplies on our retail shelves, inputs to manufacturers, and agriculture productive. A nationwide increase on commercial trucks' weight limits to 88,000 lbs. from June 15-November 1 could increase efficiency in the sector. Giving trucks the ability to carry more will increase transportation efficiency throughout the supply chain as well as reduce emissions from transportation.

As an example, for a local farmer-owned cooperative, improving load efficiency by 5–10% would be significant. Moving weight limits to 88,000 lbs. for agricultural use haulers would reduce their trucking needs by 250 loads to resupply facilities and meet expected fall harvest needs. Increasing load limits to 90,000 lbs. would reduce their trucking needs by 300 loads (~\$55,000.00 of trucking cost). This is significant at a time when CDL truck drivers are hard to come by, fuel costs are rising, and harvest of crops is just a few months away.

Further, we recommend harmonization of state road and interstate highway system truck weight limits. Lower Interstate Highway System truck weights compared to state road truck weight limits reduce economic and environmental efficiency. We believe the solution is to give states flexibility to increase and harmonize the maximum gross vehicle weight for trucks on the Interstate Highway System in their jurisdictions, depending upon current state highway limitations.

In March 2020, Congress provided states with the option to determine truck weight limits through Section 22003 of the “Coronavirus Aid Relief, and Economic Security Act” (CARES Act). Approximately 20 states utilized the emergency authority to increase and harmonize truck weight limits for state and Interstate Highways within their jurisdictions.

Increased and harmonized uniform truck weight limits improve our sector’s efficiency and reduce its carbon footprint. For example, if a state’s truck weight limit is 90,000 pounds for state roads, but the Interstate Highway weight limit is 80,000 pounds, the driver’s utilized freight limit is only 80,000 pounds if the best shipping route includes connection to an Interstate Highway, even though the Interstate Highways are our nation’s safest and best built and maintained roads.

Usually, an unloaded tractor-trailer combination weighs approximately 30,000 pounds. Thus, a tractor-trailer combination loaded to 80,000 pounds would carry approximately 50,000 pounds of freight. At 90,000 pounds, the tractor-trailer combination would carry approximately 60,000 pounds of freight, amounting to a 20 percent increase in freight efficiency and a commensurate reduced carbon footprint per pound, all while reducing the number of trucks that otherwise would traverse congested highways.

Unfortunately, under statute that was not modified by the CARES Act, states’ authority to increase truck weight limits on Interstate Highways ended 120 days following a Presidential disaster declaration. Thus, following the March 13, 2020, presidential declaration for coronavirus, states were required to rescind the higher truck weight limits on Interstate Highways on July 12, 2020.

We respectfully request your support to provide states with the flexibility to increase and harmonize the maximum gross vehicle weight for trucks on the Interstate Highway System in their jurisdictions in a way that is compatible with their current state highway limitations.

#### IV. Rail

Rail transportation remains an important mode for transporting agricultural products, even though its modal share has declined significantly given the rapid consolidation of the rail industry. Today, four railroads haul more than 90 percent of all freight rail traffic, with duopolies existing in the East (CSX and Norfolk Southern) and the West (BNSF and the Union Pacific). Further, six of the seven Class I U.S. freight railroads (the largest carriers) have implemented a form of the so-called precision-scheduled railroad

operating model, which at its core involves dramatic reductions in what they spend to run the railroad. This results in furloughing of crews, downsizing of customer service personnel, and idling of locomotive assets while generating ever-increasing revenues to reward shareholders.

While we believe it is important for railroads to earn sufficient revenues to invest in their networks and earn reasonable profits, the balance has shifted to the point that carriers are increasingly and arbitrarily dictating the terms and conditions under which they will provide service to our sector. Many facilities are captive to a single railroad and, in some cases, railroads have “demarketed” traffic by either increasing rates or imposing service conditions that make rail infeasible for shippers and receivers. This has major supply chain implications when we operate in a just-in-time delivery system.

In response to these and other developments associated with railroads exercising their overwhelming market power, the Surface Transportation Board (STB)—the independent federal agency responsible for providing regulatory oversight of freight rail practices—has initiated significant efforts to better balance the needs of railroads to earn revenues with the need for rail customers to have access to cost-effective and reliable rail service. These efforts have included the Agency’s instituting rulemakings to provide rail customers with a more streamlined, simplified and less costly process for challenging unreasonable rail rates—known as the Final Offer Rate Review procedure—as well as issuing guidelines addressing egregious and one-sided demurrage and accessorial practices imposed by carriers. But as with each mode, much more needs to be done if freight rail is to remain a viable mode for efficiently and reliably transporting U.S. agricultural products in the highly competitive global market.

The STB will mark its 25th anniversary in 2021. However, many of its regulations and policies that were implemented decades ago by the STB and its predecessor, the Interstate Commerce Commission, are no longer relevant in today’s rail marketplace and need to be updated or eliminated, as was borne out in a landmark 2015 study conducted by the National Academy of Sciences’ Transportation Research Board. These include:

- more rail-to-rail competition;
- define the meaning of railroad’s legal common carrier obligation “to provide service upon reasonable request”;
- meaningful rail rate reform; and
- review of the current commodity exemptions from STB regulation, including those for certain forest and paper products.

It is critical that the STB provide meaningful regulatory oversight and serve as a neutral body to adjudicate rail marketplace disputes. Continuing efforts to modernize this critical agency under the Biden administration will help farmers, agribusinesses and manufacturers be more viable and competitive while still preserving a vibrant and profitable rail industry.

V. Inland Waterways

America's inland waterways system, comprising 12,000 miles of navigable waterways in 38 states, is critical to the transportation supply chain. This vast network typically transports nearly 600 million tons of freight valued at \$250 billion over what, mile-for-mile, is the safest and most environmentally responsible mode of goods transport. Barge transportation is highly fuel efficient, with towboats moving one ton of cargo 647 ton-miles per gallon of fuel, compared to trucks moving that same weight 145 ton-miles for each gallon of fuel burned, and locomotives transporting such cargo 477 ton-miles per gallon. A standard inland river configuration of one towboat pushing 15 barges of dry cargo moves as much as 1,050 semi-trucks on our highly congested roadways, or six locomotives pulling 216 rail cars.

However, investments must be made in areas such as the Upper Mississippi and Illinois Waterways. The lock system is 90-100 years old and deteriorating. Most of the locks are only 600-feet long and cannot accommodate modern barging practices, which use 1,100-foot barge-tows. As a result, time-consuming and dangerous double-locking procedures must be utilized.

We commend Congress for the recent passage of the Water Resources Development Act (WRDA) bill that updates the cost-share formula for inland waterway projects and provides access to the existing balance of funds within the Harbor Maintenance Trust Fund over a 10-year period to facilitate port-dredging activities. Further investment is needed to upgrade locks and dams and we recommend the administration support congressional efforts to continue its recent practice of enacting WRDA bills every two years to ensure important policy updates are made in a timely manner.

VI. Port Infrastructure and Container Availability

Our ports are the gateway for U.S. agricultural exports being successful. Right now, West Coast Ports are hampered by outdated infrastructure and environmental regulations that limit the ability to make improvements. Without state-of-the-art Port infrastructure

farmers and ranchers are not able to fully benefit from the business potential of various trade agreements and face supply chain issues coming and going.

This past year U.S. farm exports saw significant delays in exporting out of West Coast ports. Delays and cancellations of shipments are causing orders to be cancelled and more products having to be absorbed by the domestic market that was already strained by COVID. Perishable products are arriving in foreign destinations rotten and importers are seeking payment claims for the spoiled fruit and orders.

We are strongly supportive of the Federal Maritime Commission's (FMC) investigation of detention and demurrage, export container availability, and container return practices of ocean carriers. Concerns over ocean carrier and terminal practices at U.S. ports include ignoring the agency's existing Demurrage and Detention Guidelines, making containers unavailable to carry agricultural export cargo, cancelling or refusing export container bookings and a persistent lack of timely notice of changes to U.S. shippers. All these harmful patterns are contributing to supply chain dysfunction, increased costs for U.S. agricultural exporters and preventing U.S. shippers from capturing export opportunities. In a similar manner to the rail environment, the ocean shipping industry has vastly changed in recent years and increasingly to the detriment of U.S. exporters. We seek solutions to better balance the needs of shipping lines with the needs of our agricultural exports.

## VII. Agricultural Biotechnology

The pandemic made clear that bolstering the food system in every way possible has become a matter of national security—agricultural biotechnology has a large role to play to enhance dependability. Biotechnology enables crops to maintain yields in the face of drought and adverse weather conditions, while requiring less land and less inputs which has a direct bearing on the food supply chain. This technology can also be used to boost the nutrient levels of fruits and vegetables and allow for fewer blemishes, such as bruises, that lead to more sellable crops for farmers ultimately requiring less acreage to maintain supply. Supply chain resiliency and climate resiliency go hand-in-hand. These technologies can also extend the shelf life of produce, cutting down on food waste, which currently creates eight percent of all global carbon emissions.

The U.S. government has maintained a consistent goal to create a biotechnology regulatory environment that fosters innovation. We encourage USDA to continue being proactive in encouraging the Environmental Protection Agency (EPA) and the Food and

Drug Administration (FDA) to publish risk and science-based biotechnology regulations and guidance that fosters innovation and increases the overall adoption of new biotechnologies. Scientific innovations, such as agricultural biotechnology, have resulted in environmental and societal benefits for decades and offer increased benefits as the technology evolves. Therefore, we believe agricultural biotechnology must continue to be a part of the comprehensive strategy to improve the health of our environment and the resilience of the agri-food supply chain.

### **Conclusion**

The U.S. continues to provide one of the safest, most affordable, and abundant food supplies in the world. Outsourcing critical sectors of our economy, such as food and agriculture, would undoubtedly compromise our national security. A country that can not feed itself, can not defend itself.

USDA has the opportunity, through comments like these and the report that will be written, to play a key role in ensuring that the food and agriculture supply chain is ready to meet any potential crisis. As the department implements the new policies and structures that will result from this process, American's farmer cooperatives will play a key role in connecting producers with other links up and down the supply chain.

Thank you for the opportunity to provide comments. We look forward to working with the department in advancing supply chain improvement policies to ready our sector for the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. F. Conner', with a long horizontal flourish extending to the right.

Charles F. Conner  
President & CEO

# Pandemic After-Action Review & Agri-Food Resiliency Planning



After every operation, the military conducts an After-Action Review (AAR) that examines what went well, what didn't and how to improve for the future. Disruptions and challenges experienced across the agri-food value chain due to the global pandemic underscored the importance of conducting this exercise as the industry works to refine long-term strategies and build resiliency in preparation for a future crisis.



Leveraging our military background, Aimpoint Research® partnered with the National Council of Farmer Cooperatives (NCFC) to lead a Pandemic AAR & Resiliency Planning exercise to provide critical insights for every sector of the agri-food value chain.

## Agri-Food Value Chain



## Pandemic After-Action Review

The AAR included in-depth intelligence gathered by the Aimpoint Research Agri-Food WatchDesk team, as well as input from over 100 agri-food industry leaders on the challenges they faced, actions they took and remaining concerns. This comprehensive report uncovered persistent vulnerabilities across every sector of the value chain.

### Agri-Food Leader Pandemic Response Survey

*Conducted October 2020 – January 2021*

**Industries Represented:** soybeans, corn, wheat, vegetables and fruits, tree crops and orchards, vineyards, cotton, sugar beets, potatoes, barley, hemp, hay and forage, tobacco, other small grains & oilseeds, poultry, pork, dairy, beef, sheep and goats, biofuels, forestry, and agri-tourism.

119

Respondents

## Pandemic After-Action Review

The Pandemic AAR revealed four core challenges that had the greatest impact on uncertainty and inefficiencies as the agri-food value chain responded to Covid-19. These core challenges included, but were not limited to, uncoordinated mandates at the global, federal, state, and local levels; unclear definition of “essential”; misinformation; lack of PPE and clear protocols; decentralized workforce; and inconsistent communication.



**Inconsistent Government Response**



**Insufficient Biosecurity Procedures & Equipment**



**Lack of Situational Clarity**



**Disparate Crisis Leadership, Protocols & Systems**

## Persistent Agri-Food System Vulnerabilities

Five persistent agri-food system vulnerabilities were identified as high risk for future disruption in another crisis. It also revealed a general overconfidence across the industry that the system is more prepared than it is. These vulnerabilities should be a priority for action in any resiliency planning across the value chain.



### **Financial Resiliency**

Farm sector debt is growing, with 39 percent of net farm income coming from government payments in 2020. The U.S. is likely headed toward a period of fiscal constraint and price volatility is expected to be significant.



### **Governance vs Politics**

Unless progress is made on a crisis management and coordination plan, the U.S. agri-food system will experience the same disparate government mandates at multiple levels in the next crisis, causing significant challenges to the supply chain.

# Pandemic After-Action Review & Agri-Food Resiliency Planning



## Consumer Patterns

The pandemic accelerated the trend to e-commerce and digital grocery services and a large percentage of workers do not expect to go back to the office full time. Consumer demand shifts will challenge supply chains as they adjust.



## Technology Barriers

While consumers increasingly want access to e-commerce platforms, rural consumers and businesses are battling a lack of rural broadband. Cybersecurity upgrades will be required, and traceability and automation is expected to increase but cost remains a barrier.



## Biosecurity

A lack of PPE challenged the supply chain and bottlenecks created during the pandemic resulted in a backup of livestock on farms. The industry remains vulnerable to future human and/or animal disease outbreaks.



## Agri-Food Resiliency Planning

During the Agri-Food Resiliency Planning event in early 2021, over 300 agri-food leaders reviewed the AAR results and participated in strategic thinking and planning sessions.

**300+**

**Participants**

The results and insights were compiled by Aimpoint Research analysts and combined with the AAR results to deliver six agri-food priority actions that the private and public policy sectors should consider.

Following is a brief summary of those findings.

**3**

# Pandemic After-Action Review & Agri-Food Resiliency Planning

## Priority Resiliency Actions



**Policy & Government Coordination:** Convene the agri-food system to establish a crisis response framework, adjust regulatory framework to ensure more coordinated response to a crisis, and establish a crisis communication plan.

**Communication & Collaboration:** Invest in rural broadband, strengthen cybersecurity, and enhance the digital customer experience.

**Supply Chain Diversity & Redundancy:** Localize supply chains to decrease logistical disruptions, strengthen e-commerce and automated logistics, and create partnerships across the supply chain.

**Consumer Trust & Traceability:** Build partnerships to align communication, and proactively implement a food traceability solution.

**Contingency Planning:** Conduct crisis and scenario planning and create flexible risk and crisis management plans across the value chain.

**Biosecurity:** Establish trustworthy protocols and invest in equipment and animal isolation plans.

For a detailed report, contact Aimpoint Research at [info@aimpointresearch.com](mailto:info@aimpointresearch.com).

## Aimpoint Research®

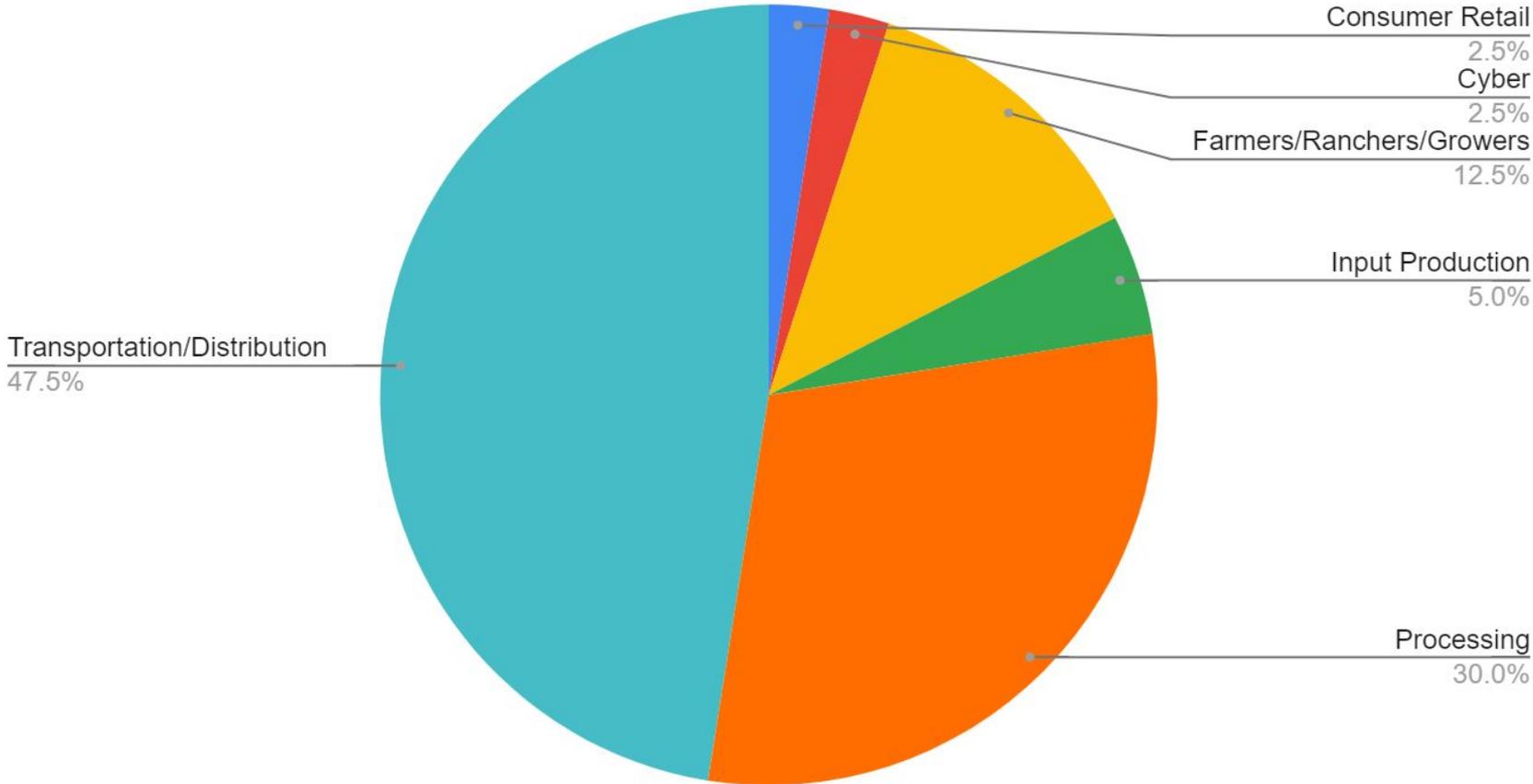
Aimpoint Research is a global, strategic intelligence firm empowering intelligence-driven organizations and providing our clients a competitive advantage. Built on the foundational principles of military intelligence and the understanding that food power is essential to national security, Aimpoint Research specializes in serving clients across the agri-food value chain.



# **Farmer Co-op Supply Chain Resiliency Survey**

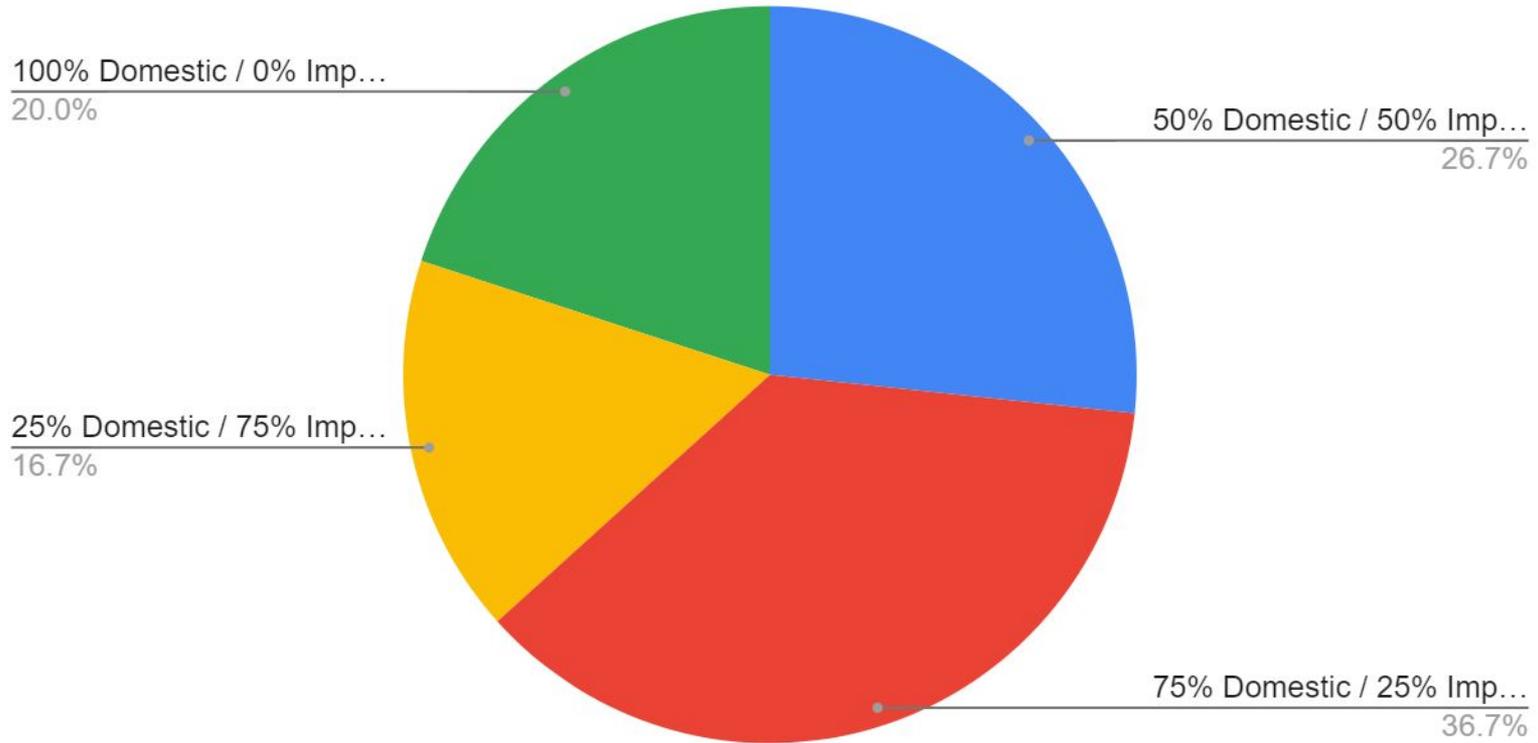
Feedback Analysis

# What link of the agri-food value chain is the most vulnerable to future crises?

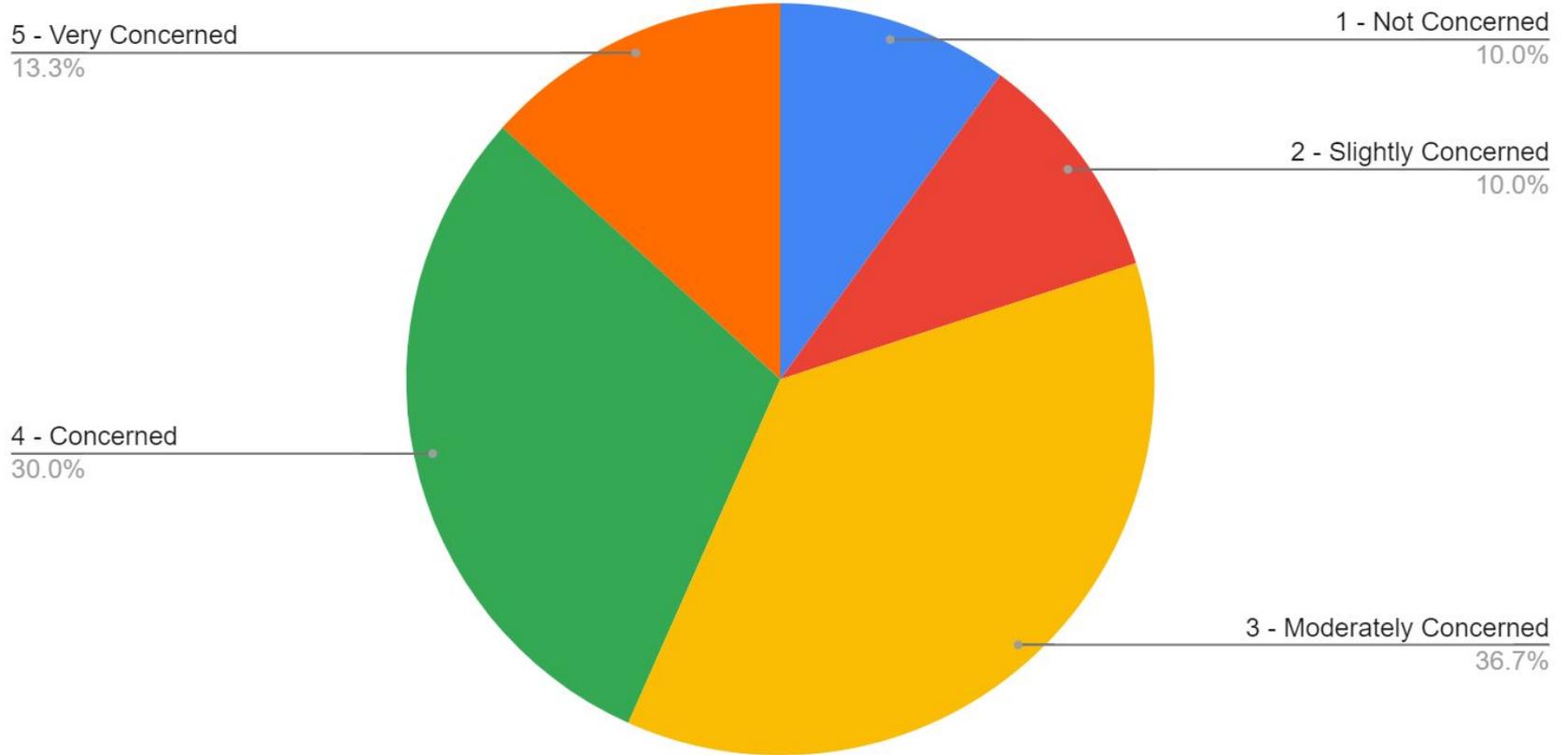


For the critical and essential inputs important to your operation, USDA is interested in how much is produced domestically and how much is foreign sourced.

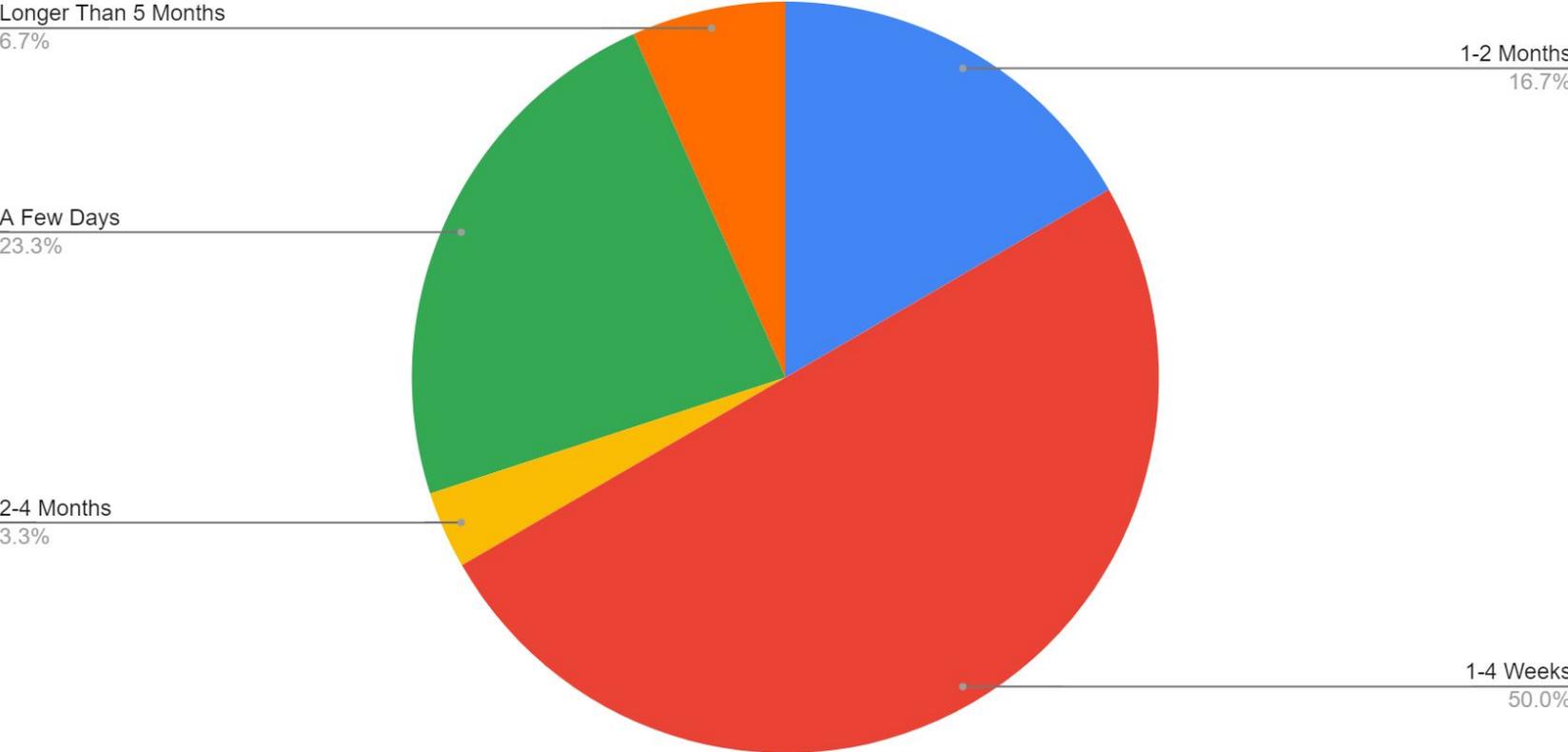
Please choose the range below that best represents that proportion, in your opinion.



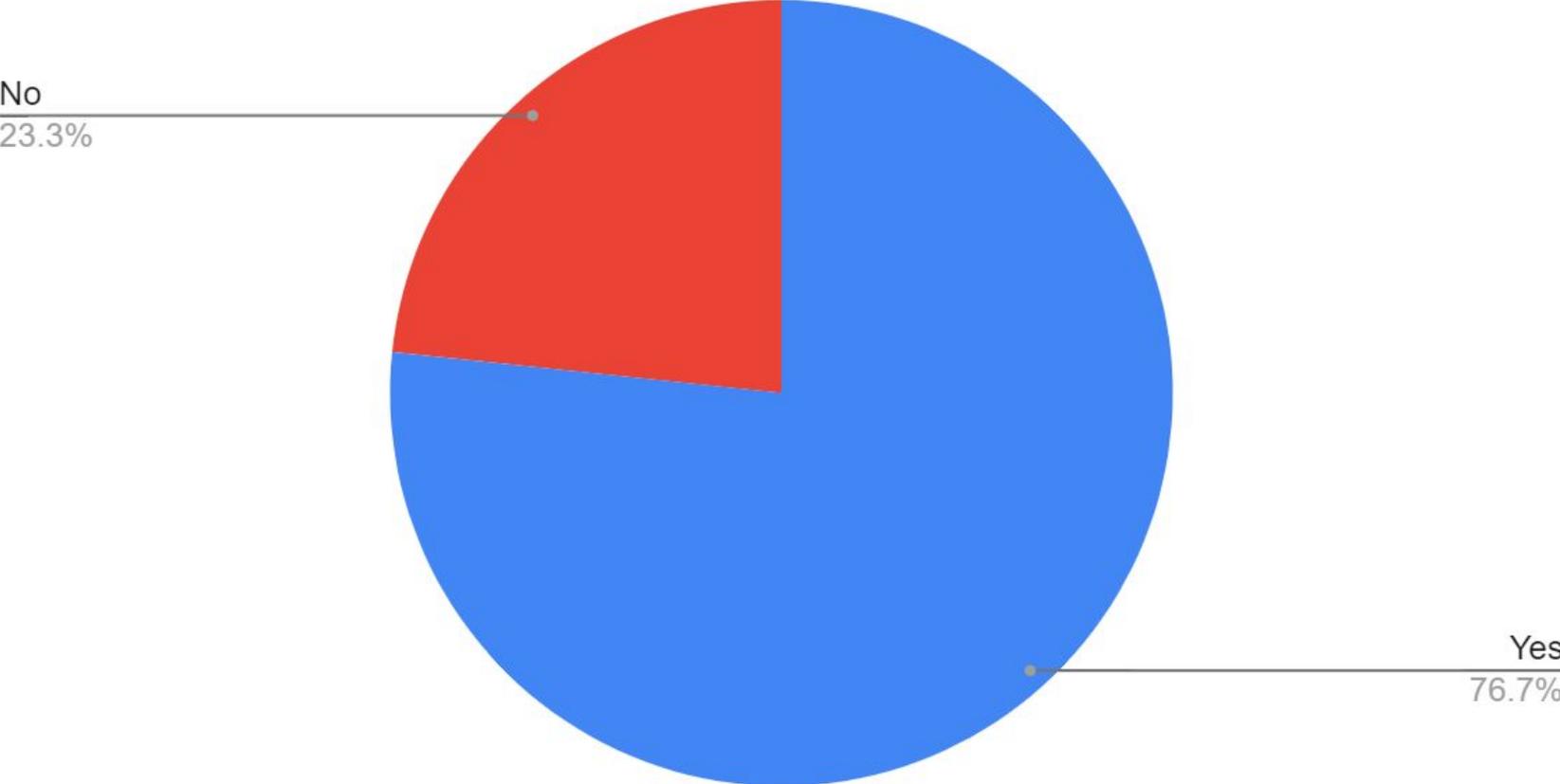
State your level of concern that some critical and essential inputs and materials are exclusively or dominantly sourced from nations that are, or could be, unstable or unfriendly.



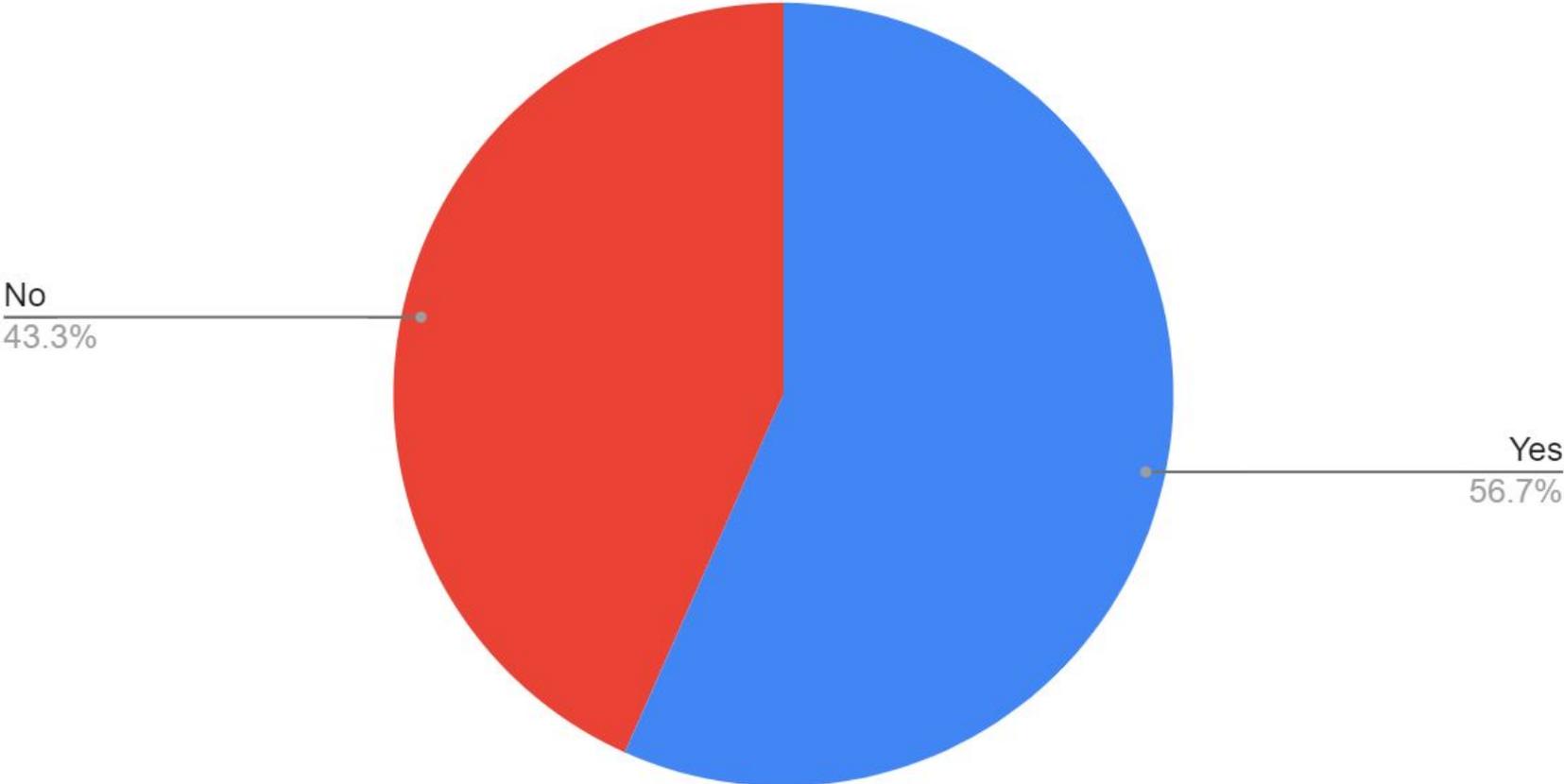
If a future crisis disrupted the supply chain and prevented your co-op from accessing the critical materials and supplies above, how long would your co-op be able to provide supplies to customers/continue processing product received, assuming a worst-case scenario in terms of timing?



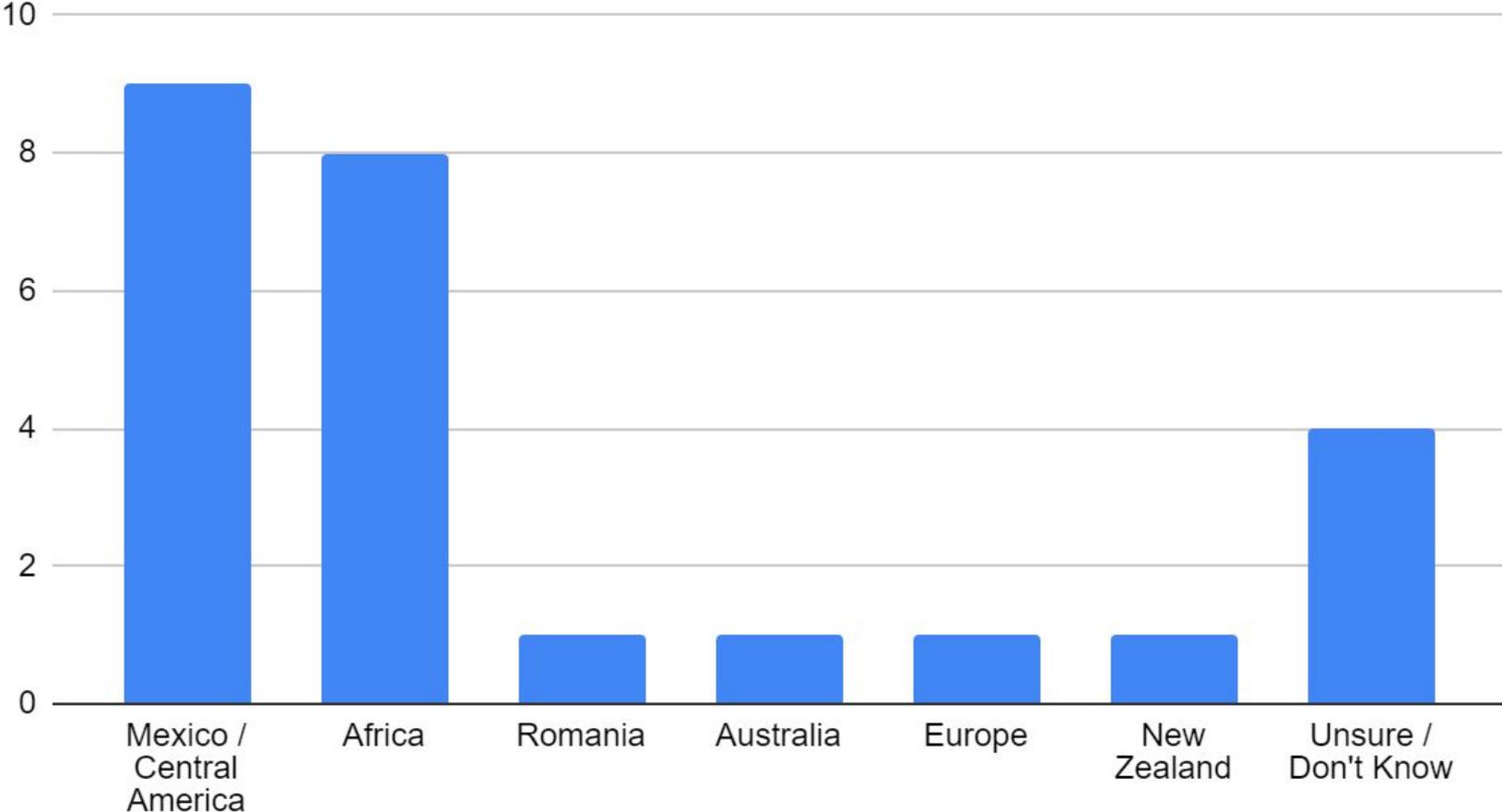
# Did the pandemic bring to light any issues in retaining a reliable and skilled workforce?



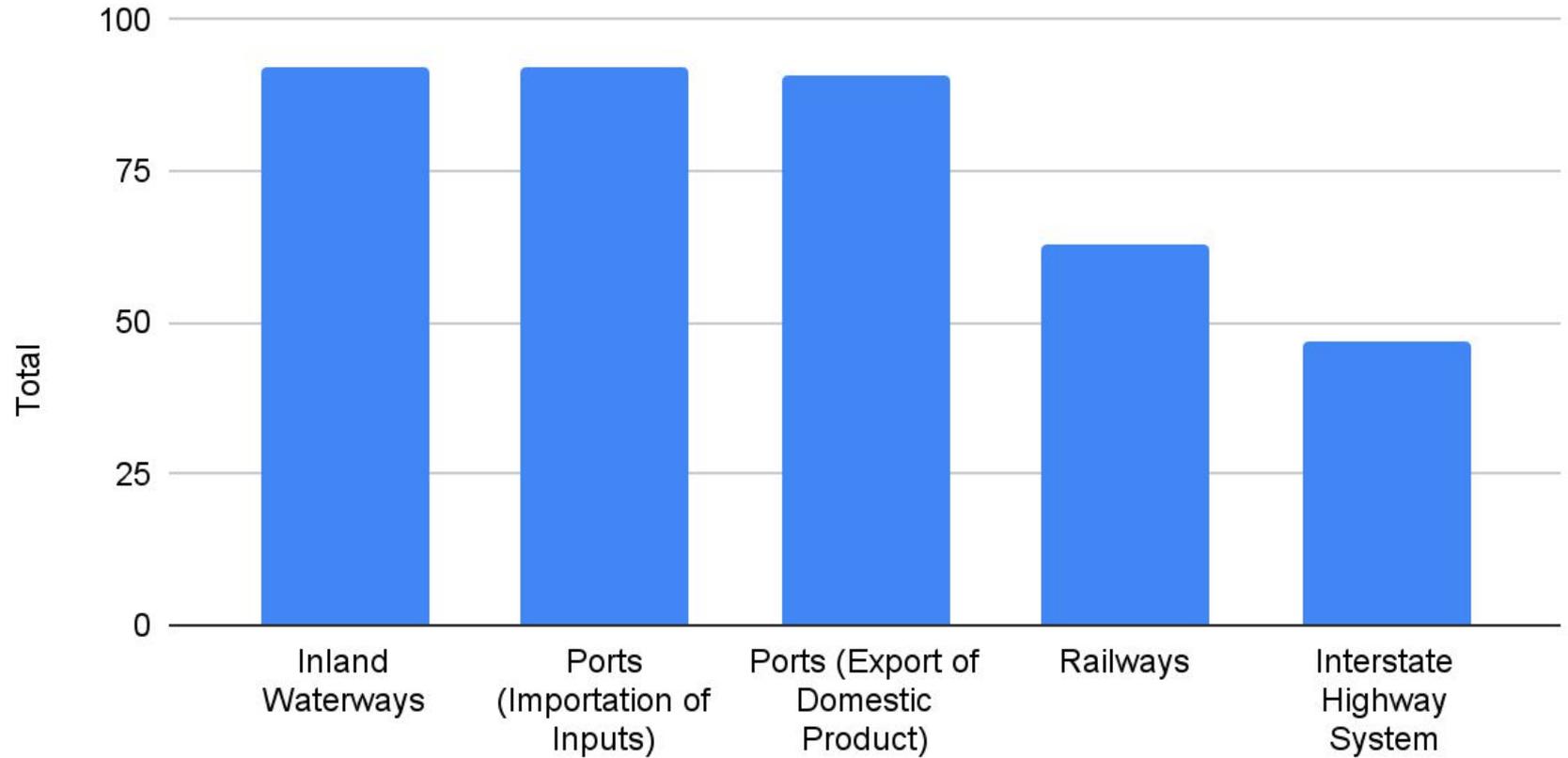
# Do your farmer-owners or your co-op use workers on an H-2A or other temporary work visa?



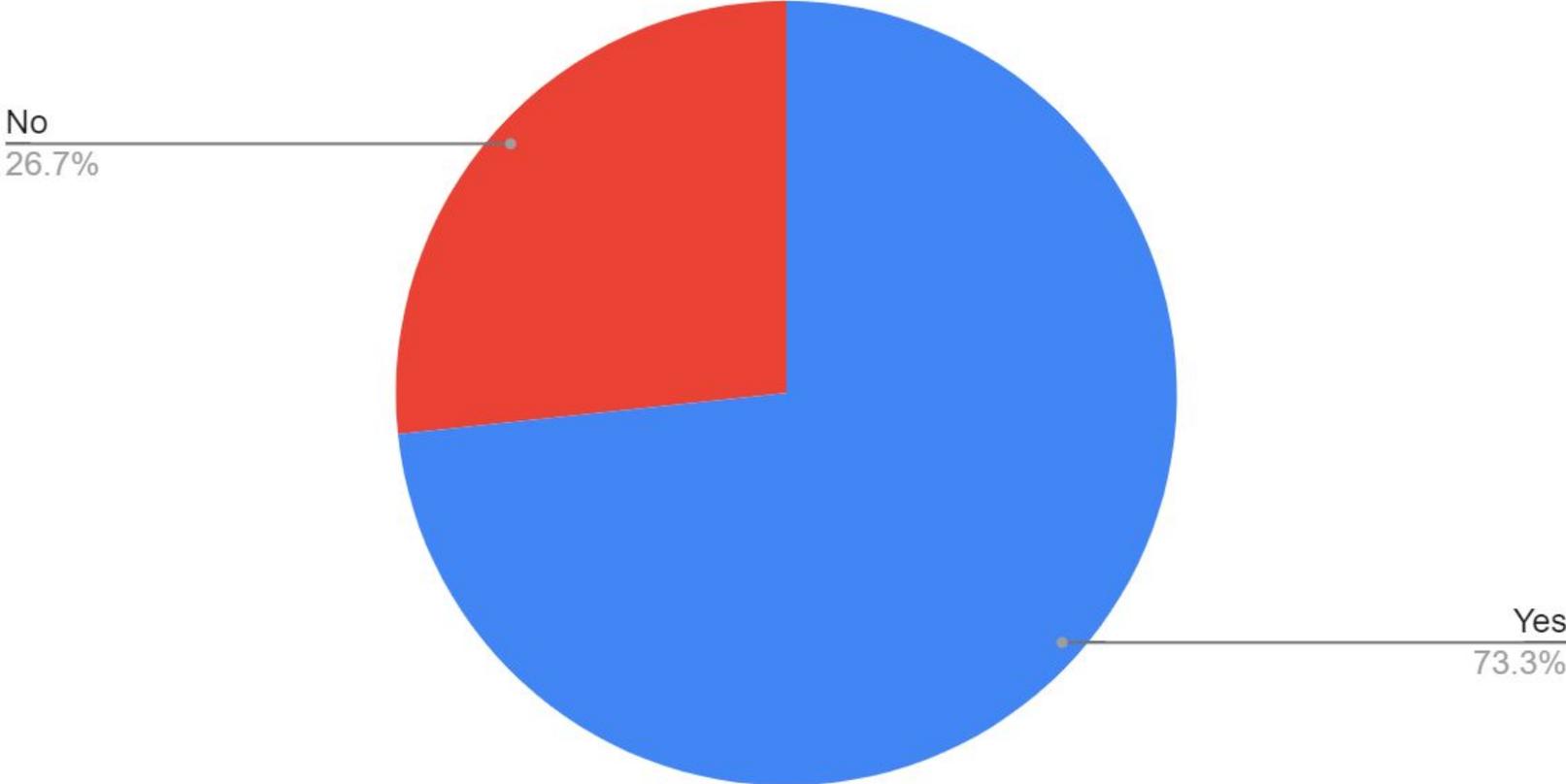
# From which region do most of these workers come from?



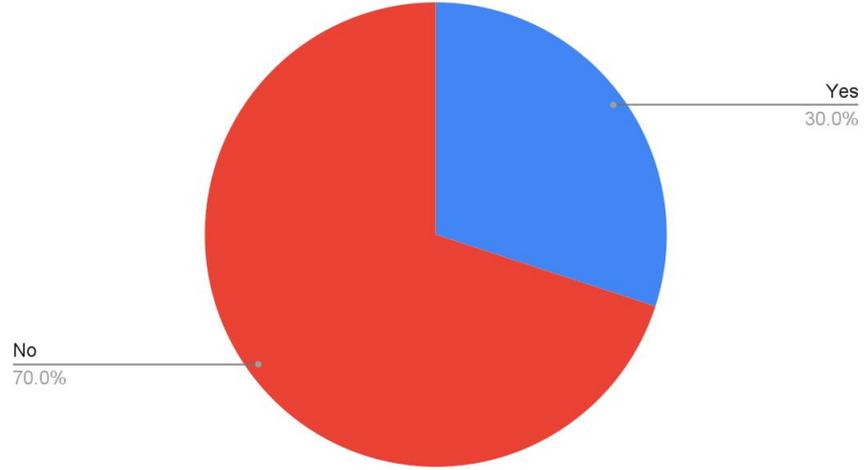
# Please rank which transportation systems are most critical to your co-op?



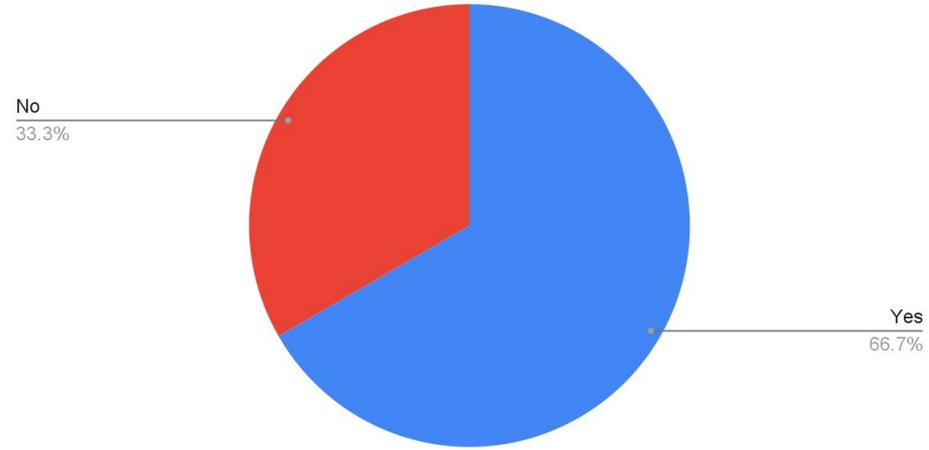
During the pandemic, did your co-op experience a disruption in any of these transportation systems?



Does your co-op sell product directly to either the food service or retail food channels?

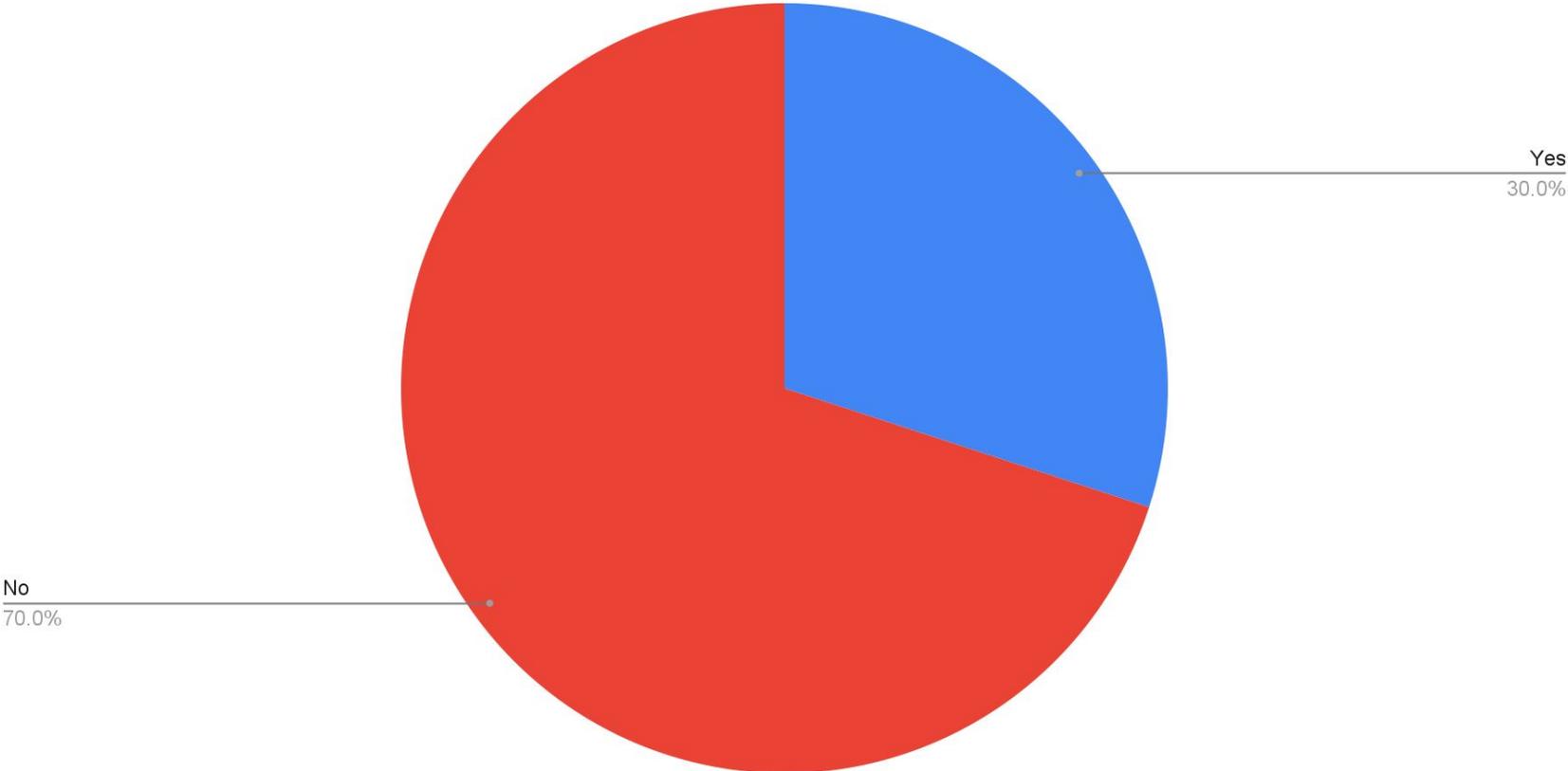


If yes, did your co-op experience any disruption in these channels as a result of the COVID-19 pandemic?

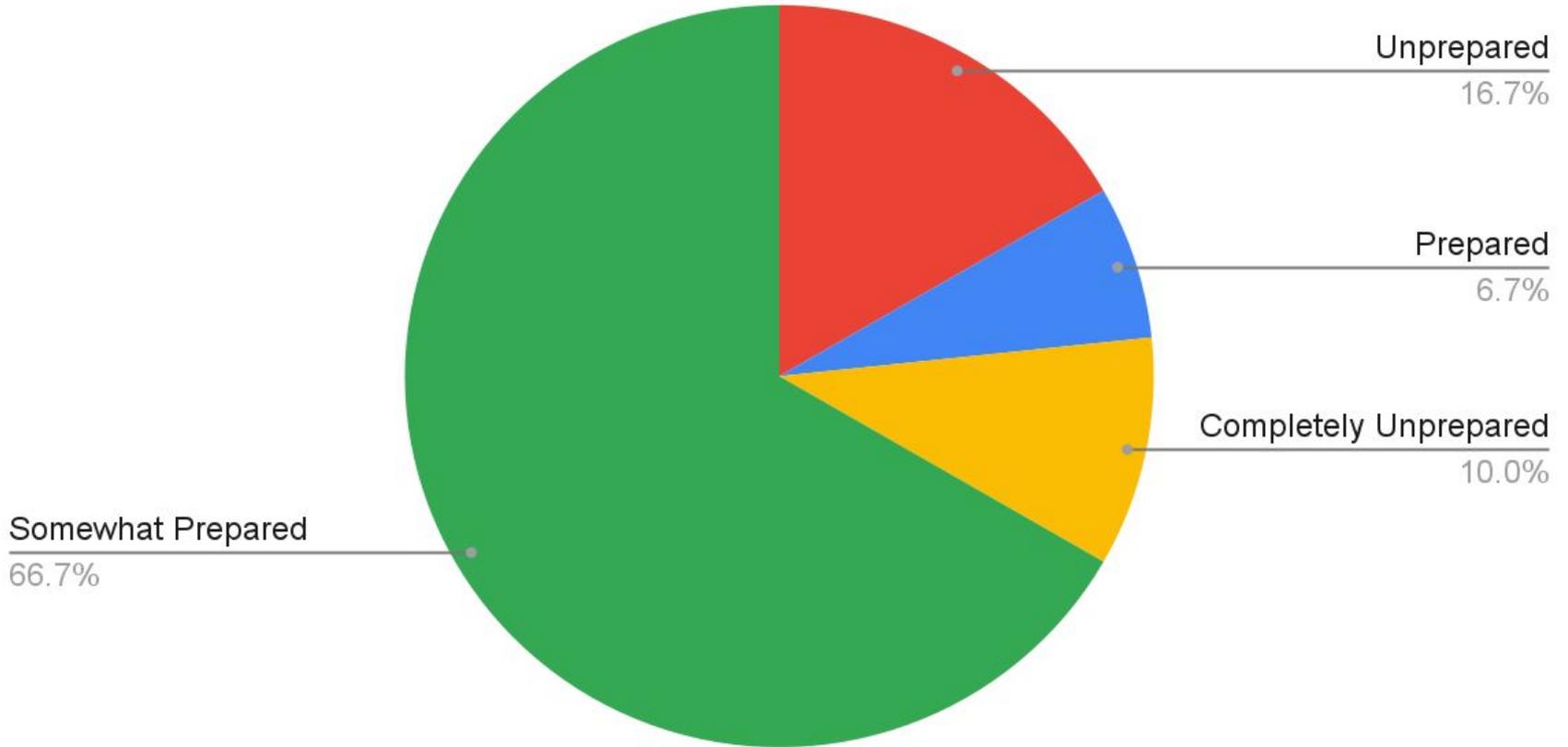


# During the pandemic, did conflicting or duplicative regulatory requirements or guidance impede your co-op's role in the supply chain?

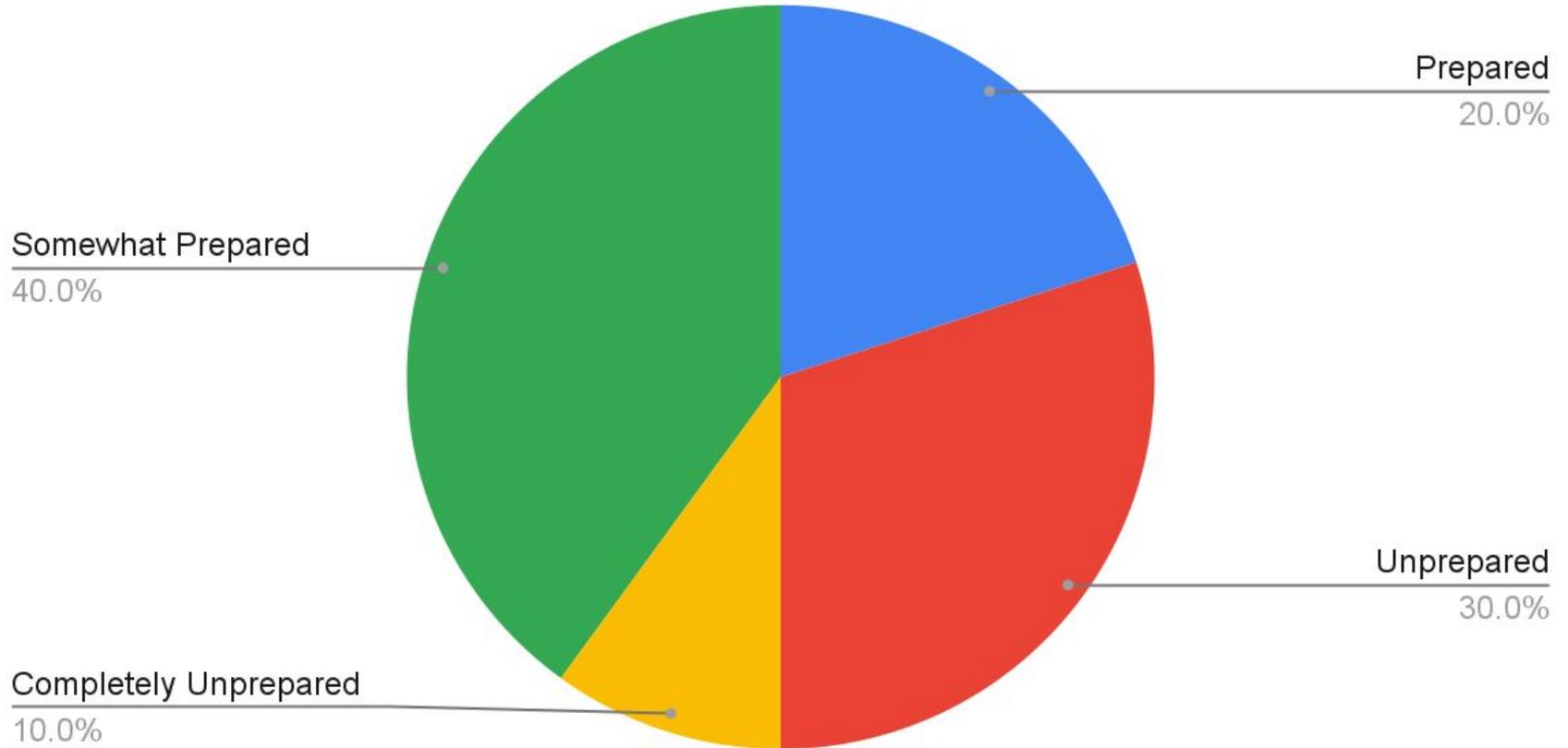
(e.g., conflicting or duplicative local/state/federal directives, conflicting or duplicative federal directives from different agencies, etc.)



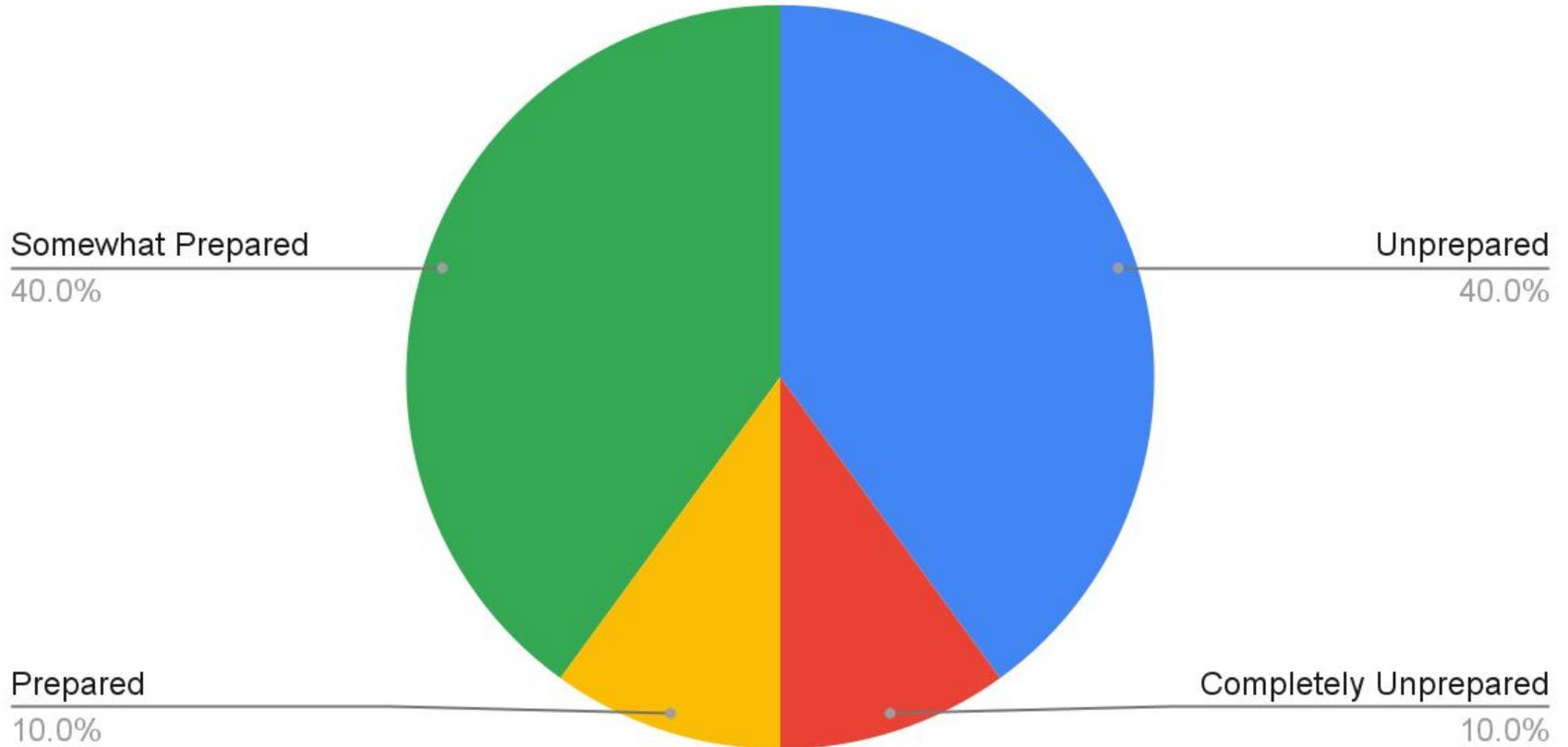
# How prepared is your sector for an energy grid disruption, shutdown or blackout?



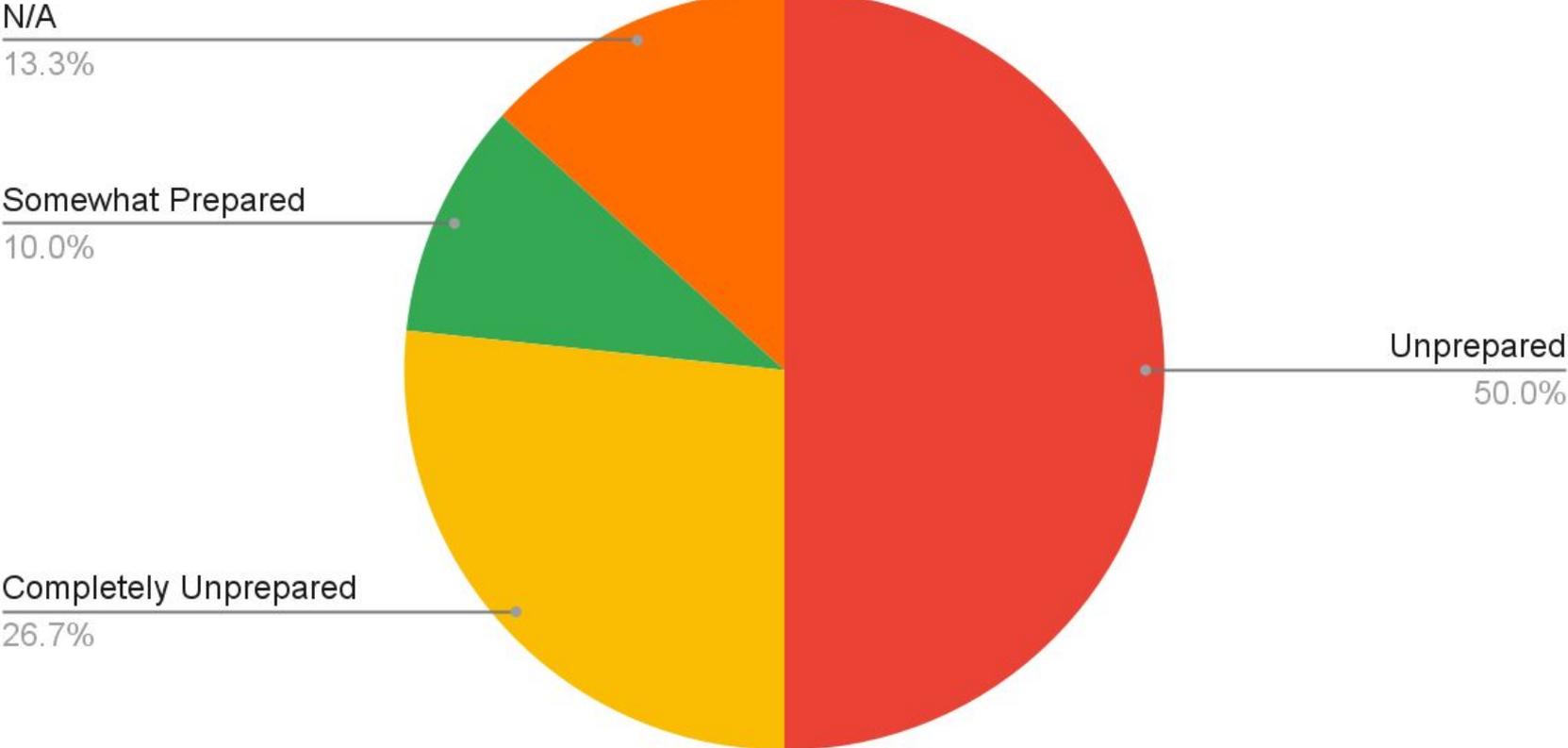
# How prepared is your sector for a fuel shortage and/or pipeline disruption?



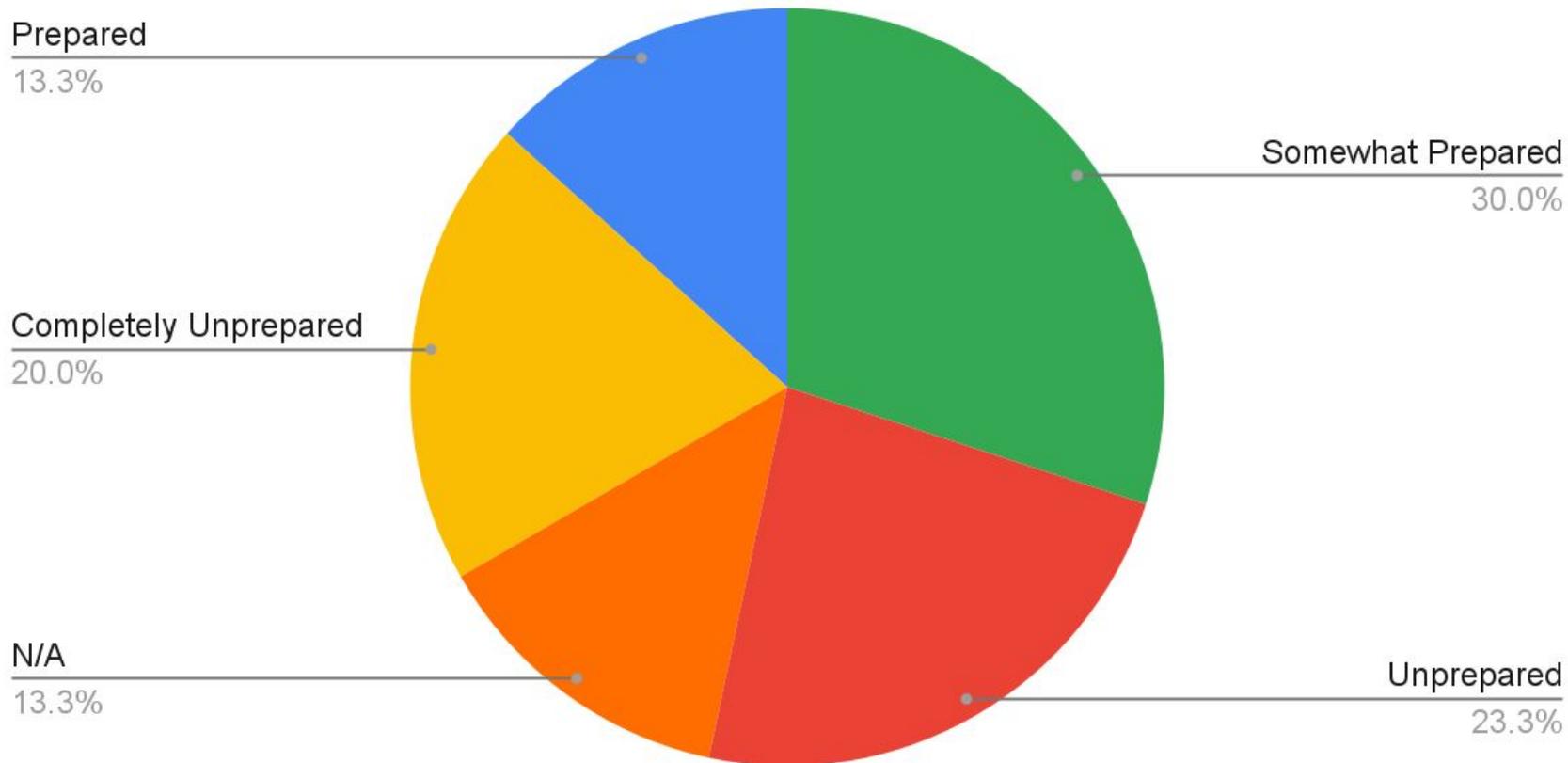
# How prepared is your sector for a unforeseen, multi-state natural disaster?



# How prepared is your sector for a wartime-like blockade of west coast shipping?



# How prepared is your sector for a widespread, multi-state livestock/poultry disease outbreak?



# What vulnerabilities remain for your sector?

## Labor

- Farm Workers
- Truck Drivers
- Changes in labor unionization and regulatory HOS or other changes with new administration

## Transportation

- Access to drivers is challenged (driven by regulatory burdens)
- Inland waterways, Mississippi and Missouri. Fix the dang locks
- Shortage of rail cars and trucks

## Farmer/Producer

- Financial Health
- Supply chain challenges (cost and access)

## Livestock

- Traceability
- Limited number of processors and size of facilities (plant fire)
- When dealing with live animals everything is critical. The ability to make quick decisions is essential. Worst case scenarios require solutions for disposal.

# What vulnerabilities remain for your sector?

## Fuel

- Unexpected long periods of supply outages...IE Refineries or Pipelines. Individualized state LCFS standards/implementation that remove viable sources of supply of diesel fuel from a market in lieu of renewable diesel that is headed to a LCFS state.
- Changes in Ethanol usage

## International Trade

- We are heavily dependent on exports. If U.S. ports are not improved/modernized/expanded, we risk losing customers to other competing countries.

# What vulnerabilities remain for your sector?

## Other

- Government Intervention and Regulations/Political Agendas
- Rural Broadband
- Cyber Attacks/Disruption
- Climate Change - Carbon Sequestration - Green New Deal
- Electric vehicles
- Power supply (PG&E) for electricity is at very high risk

What public policy changes or investments would you advocate for to strengthen the agri-food value chain and build resiliency against a future pandemic or crises?

#### Labor/Immigration Reform

- Allow **co-ops to use H-2A** program
- **Lower unemployment** benefits
- **Benefits for front line workers** to keep people at their jobs instead of paying them to stay home
- **Don't overreact.** Keep people working.
- The **unemployment benefit** is both unneeded and limiting labor access
- **Guest worker programs** to encourage people to come and work here to improve labor availability

# Public Policy Changes or Investments Continued

## Infrastructure/Transportation

- **Incentives for logistics** such as rail or truck fleets investments
- **Inland waterways** need maintained
- The **ability of rail companies to service customers** must be considered by policy makers. The **monopoly power** they have has led to poor customer service with no recourse options.
- Greater emphasis in **community colleges on transportation sector training**.
- **Promote more farm to market** to keep the transportation down, and keep products more accessible. This will be difficult because many essential products are not available in areas.
- **Ports** should be a major priority in infrastructure investment
- **Increase load weight limits** for agricultural related trucks
- A **comprehensive infrastructure plan** that includes expansion of logistical capacity
- Trade infrastructure and the need for reliable and **modernized waterways, ports, and transportation infrastructure** to facilitate international trade.

# Public Policy Changes or Investments Continued

## Supply Chain Resilience

- Resilience needs to be **studied and implemented**
- **Local and state preparedness** for future
- **Emergency action plans** to mitigate the economic risks associated with interrupted domestic and global commerce
- This country needs the ability to **prioritize feeding our population** when we experience these types of major disruptions.
- **Dedicated efforts/assets** specifically addressing what we have learned from this pandemic (with ability to effect change)

# Public Policy Changes or Investments Continued

## Government Intervention and Regulations

- Have **decisions made by management that is local**, not having someone in thousands of miles away make a decision for everyone and every area.
- I don't like to advocate for governmental interference in the free market system, but given recent events, I believe we need **some limitations on plant capacity**, such as maximum percent of national daily slaughter (so we don't have another plant fire and find out we lost 10% of our national, daily slaughter capacity). I also believe there needs to be some **limits on the corporations** as to what percent of the national, daily slaughter capacity they control, it starts to look and feel like a monopoly when you have 2 or 3 packers controlling majority of the beef or pork or poultry processing capacity.
- **Too much size and scale**. the military would not put all their ammunition in one pile- too easy to destroy- but we make processing plants etc. so big, that one plant etc. goes down, the whole war is over. everyone loses
- Need to **review conflicting regulation** - in many cases regulation is compounding concerns.
- **Free market access** to foreign markets

# Public Policy Changes or Investments Continued

## Other

- Provide incentives to manufacturer more **PPE** in the U.S. Another pandemic or other crisis will stress PPE supplies if we rely on offshore sourcing.
- **Rural broadband** as a critical connector of resilient supply chains
- **Climate change** impacts to farming and ranching and the need to help farmers increase their operations' resiliency.
- **Invest in more shelf stable** production of food
- Provide incentives to manufacturer more **PPE** in the U.S. Another pandemic or other crisis will stress PPE supplies if we rely on offshore sourcing.
- Reduction of the shotgun approach to **fuel standard** and LCFS
- Don't weaponize the food supply

# Any additional comments/concerns regarding your cooperative's supply chain that were not addressed?

- It is very evident that we need a **comprehensive supply chain strategy** - and that individual states do not conflict (driver hours, truck weights). Also - there are direct impacts to pipeline reduction - this causes more pressure on rail
- Please include cotton's role in the **production of domestic PPE** in NCFC comments on supply chain resiliency.
- The designation of all the **agriculture supply chain as essential** and thus immune to local lockdowns was critical to our industry and the overall economy.
- **Propane** is normally in high demand to dry crops and heat homes in the Midwest. I find this difficult to understand that this country continues to export more propane than it uses. During high demand times of the year, we have difficulty accessing a good supply for crop dryers and home heating, but the propane gallons continue to leave the country. Maybe an export tax that can help keep the propane available for our citizens.

# Any additional comments/concerns regarding your cooperative's supply chain that were not addressed?

- **Labor shortage** was a huge issue for us and many of our patrons, so it was very concerning when we all know people who were sitting at home collecting huge unemployment checks each week with no job search requirements. I had employees every week asking to be laid off because they have family members and friends sitting at home collecting more money than our employees who were coming to work everyday - that was just wrong. There were and are jobs available and the government needs to stop wasting tax payer money to incentivize people to sit at home! In Wisconsin someone qualify for \$288/week from the state and automatically get another \$300 from the federal government, so if they can collect \$588 plus state healthcare instead of working 40 hours per week for \$15 to gross \$600 and then have health care premium deducted and pay commuting expense and childcare, why would they? It was much worse when the federal money was \$600/week. Wisconsin is/was a labor market with a \$7.25 minimum wage and \$15 was a good hourly wage. This nationwide approached has really upset the labor market in Wisconsin. Their federal money really needed to scale with what the employee was eligible for under the state program and not just an automatic lump amount.

# Any additional comments/concerns regarding your cooperative's supply chain that were not addressed?

- We need **Labor**. Had success with H-2A program two years ago. Then were not allowed in a ruling by Labor Dept., Need to be able to use program!!
- **Developing and investing in the supply chain** takes generations. How do we leap forward? What is the goals? short term cost versus long term risk. China never laid land lines for phones- they just put up cell towers.