TO: NCBA Members

FROM: Colin Woodall – NCBA CEO

DATE: Thursday, March 26, 2020

RE: Food and Agriculture Critical Infrastructure Designation for COVID-19

In response to the ongoing COVID-19 crisis, we have seen state and local governments implement “shelter-in-place” or “stay-at-home” orders. These orders vary from jurisdiction to jurisdiction, however the USA PATRIOT Act of 2001 defines “critical infrastructure” as “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.”

Presidential Policy Directive 21 identifies 16 Critical Infrastructure Sectors under the USA PATRIOT Act, including “Food and Agriculture.” The Department of Homeland Security’s (DHS’s) Cybersecurity & Infrastructure Security Agency (CISA) describes the Food and Agriculture sector as being “composed of an estimated 2.1 million farms, 935,000 restaurants, and more than 200,000 registered food manufacturing, processing, and storage facilities” and having a “critical dependenc[y]” with the Transportation sector for “movement of products and livestock.”

DHS’s Food and Agriculture Sector-Specific Plan, developed jointly with the Food and Drug Administration and the U.S. Department of Agriculture, more specifically defines the Food and Agriculture sector as encompassing “the supply chains for feed, animals, and animal products; crop production and the supply chains of seed, fertilizer, and other necessary related materials; and the post-harvesting components of the food supply chain, from processing, production, and packaging through storage and distribution to retail sales, institutional food services, and restaurant or home consumption.”

The sector specific plan identifies eight categories within the Food and Agriculture sector:

* Supply
* Processing, Packaging, and Production
* Agricultural and Food Product Storage
* Agricultural and Food Product Transportation
* Agricultural and Food Processing Product Distribution
* Agricultural and Food Supporting Facilities
* Regulatory, Oversight, and Industry Organizations
* Other Agriculture and Food

In The President’s Coronavirus Guidelines for America, the White House emphasizes that food industry sector workers should continue to work during the national effort to halt the spread of COVID-19: “If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as . . . food supply, you have a special responsibility to maintain your normal work schedule.”

*SAMPLE LETTER TEMPLATE FOR FOOD/AGRICULTURE EMPLOYEE*

*PLACE ON COMPANY LETTERHEAD*

**Critical Industry Employee Authorization to Travel Regardless of the Time of Day**

To Whom It May Concern:

The individual in possession of this letter works in the Food and Agriculture industry and must travel to and from work and engage in his or her work activities regardless of the time of day as an employee in a sector that has been deemed by the U.S. Government as critical to the infrastructure of the United States.

The Food and Agriculture industry is essential for the continued function of the economy in this time of crisis. It is essential to the nation’s food supply that this individual be permitted to proceed to or from his or her job, or to otherwise perform his or her job function. The Food and Agriculture industry has been designated a “Critical Infrastructure Segment” under Presidential Policy Directive 21 and Department of Homeland Security emergency readiness programs implementing the USA PATRIOT Act of 2001. 42 U.S.C. § 5195c(e). It is therefore the policy of the United States government that these industries continue to function with minimal disruption in the event of an emergency. Furthermore, on March 16, 2020, the President of the United States issued “The President’s Coronavirus Guidelines for America” which instructed employees of Critical Infrastructure Industries, including the food and agriculture sector, to continue to perform their normal job functions during the coronavirus pandemic.

The continued operation of the Food and Agriculture industry is vital to the health and wellness of the American people during this emergency. As such, the individual in possession of this letter is a “critical infrastructure industry employee” of the Food and Agriculture industry and should be considered exempt from local restrictions such as curfews, shelter-in-place orders, and other mobility restrictions when reporting to, returning from, or performing his or her work functions. We ask that you allow this individual to continue with his or her job in the interest of protecting public health and security.

Should you have any questions concerning this letter, please contact [NAME], [TITLE], [COMPANY] at [XXX-XXX-XXXX].

Certified by,

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[NAME]