

April 27, 2015

The Honorable Mario Cordero
Chairman
Federal Maritime Commission
800 North Capitol Street, N.W
Washington, D.C. 20573

Dear Chairman Cordero:

The undersigned organizations representing importers, exporters, manufacturers, retailers, wholesalers, farmers and truckers would like to commend the Federal Maritime Commission (FMC) for taking an interest in the issue of port congestion and the impact of congestion on demurrage, detention, and per diem charges paid by beneficial cargo owners (BCOs) and their motor carriers.

In particular, we wish to thank the FMC for its report, *Rules, Rates, and Practices Relating to Detention, Demurrage, and Free Time for Containerized Imports and Exports Moving Through Selected United States Ports*, released April 13, 2015. The report provides a good foundation for helping stakeholders understand how these charges are assessed, and the significant problems that many BCOs and motor carriers face as a result of congestion, poor terminal management practices, and other factors beyond their control. However, we believe the FMC needs to take action to address these issues.

BCOs and their motor carriers are frustrated by the fact that they are being charged detention and demurrage fees when factors beyond their control make it impossible for them to return chassis or empty containers, or pick up or drop off loaded containers within free time limits. The undersigned believe that the practice of charging detention and demurrage under such circumstances represents an unfair and unreasonable practice that may potentially violate the Shipping Act.

The report captures these concerns and identifies a number of actions that could be taken by the Marine Terminal Operators (MTOs), Vessel Operating Common Carriers (VOCCs), Motor Carriers, and BCOs. Many of our organizations and our members will be evaluating the private sector options outlined in this report, specifically those directed at the BCO and motor carrier community.

We also want to thank the FMC for the work that the Office of Consumer Affairs and Dispute Resolution (CADRS) has undertaken to help importers, exporters, and motor carriers recoup detention and demurrage charges that were assessed during the recent disruptions at West Coast ports. While we appreciate the FMC's efforts to date, we believe that more needs to be done so that MTOs and VOCCs discontinue the practice of assessing detention and demurrage charges when BCOs and their motor carriers are unable to pick up or drop off loaded containers, or return equipment within free time limits because of factors beyond their control.

To that end, the report offers several suggestions for FMC self-initiated action that we believe have merit. The report clearly identifies that a problem exists through the complaints and anecdotal information already collected. While additional documentation may be needed on industry specific complaints, we believe the record is already well established that limiting free

time and assessing and collecting demurrage and per diem charges from port stakeholders who are not responsible for the port congestion gridlock is both unfair and counterproductive to finding much needed solutions for improving port operational efficiencies.

We therefore urge the FMC to quickly consider all of the options identified in the report and to take action, beyond the conflict resolution activities that CADRS has currently undertaken. We stand ready to work with the Commission to provide ideas and advice on further actions on this critical issue. Thank you for your consideration.

Sincerely,

Agriculture Transportation Coalition
Airforwarders Association
Almond Hullers & Processors Association
American Apparel & Footwear Association
American Association of Exporters and Importers
American Cotton Shippers Association
American Forest and Paper Association
American Frozen Food Institute
American Home Furnishings Alliance
American Import Shippers Association
American Pyrotechnics Association
American Soybean Association
American Trucking Associations
Association of Food Industries
Auto Care Association
BizFed, Los Angeles County Business Federation
California League of Food Processors
California Fresh Fruit Association
California Retailers Association
California Trucking Association
Chicago Customs Brokers & Forwarders Association
Consumer Electronics Association
Cookware Manufacturers Association
Fashion Accessories Shippers Association (FASA)
Footwear Distributors & Retailers of America (FDRA)
Foreign Trade Association
Furniture Shippers Association
Gemini Shippers Association
Global Automakers
Global Cold Chain Alliance
Green Coffee Association
Harbor Trucking Association
Hardwood Federation
Health Industry Distributors Association
Institute of Scrap Recycling Industries, Inc.
Institute of Makers of Explosives
Intermodal Motor Carriers Conference
International Association of Refrigerated Warehouses

International Casual Furnishings Association
International Fragrance Association, North America
International Refrigerated Transportation Association
International Wood Products Association
Juice Products Association
Juvenile Products Manufacturers Association
Los Angeles Chamber of Commerce
Midwest Shippers Association
Motorcycle Industry Council
National Association of Chemical Distributors
National Association of Egg Farmers
National Association of Manufacturers
National Chicken Council
National Cotton Council
National Council of Farmer Cooperatives
National Customs Brokers and Forwarders Association of America
National Pork Producers Council
National Oilseed Processors Association
National Onion Association
National Potato Council
National Retail Federation
National Shippers Strategic Transportation Council (NASSTRAC)
New Jersey Motor Truck Association
North American Home Furnishings Association
North American Meat Institute
North American Shippers Association
National Association of Egg Farmers
Northwest Food Processors Association
Oregon Potato Commission
Pacific Coast Council of Customs Brokers and Freight Forwarders
Pacific Northwest Vegetable Association
PPAI - Promotional Products Association International
Retail Industry Leaders Association
Scrap Recycling Industries
Specialized Furniture Carriers
Specialty Crop Trade Council
Sports & Fitness Industry Association
The National Industrial Transportation League
The Waterfront Coalition
Toy Industry Association
Transportation Intermediaries Association
Travel Goods Association (TGA)
U.S. Apple Association
U.S. Fashion Industry Association
U.S. Forage Export Council
U.S. Hide, Skin and Leather Association
United Fresh Produce Association
US Dry Bean Council
USA Dry Pea & Lentil Council

USA Poultry & Egg Export Council
Washington Farm Bureau
Washington Retail Association
Washington State Hay Growers Association
Washington State Potato Commission
Washington Trucking Associations
Western Growers Association

CC: Commissioner Rebecca F. Dye
Commissioner Richard A. Lidinsky, Jr.
Commissioner Michael A. Khouri
Commissioner William P. Doyle