

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