

March 16, 2020

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

Dear Chairman Khouri:

We are writing to congratulate the Commission for its leadership in conducting Fact-Finding Investigation 28 and issuing the Proposed Interpretive Rule addressing fair demurrage and detention practices at our nation's maritime gateways. With the global supply chain disruption and massive losses of business resulting from the coronavirus, the undersigned organizations respectfully request that the Commission expeditiously adopt the Interpretive Rule as published.

Detention and demurrage fees that do not promote efficiencies impose unreasonable costs and significant burdens on the US shipping public, including importers, exporters, transportation intermediaries, and drayage providers. These stakeholders are currently grappling with increased trade barriers and economic pressures, now exacerbated by the coronavirus crisis. The imposition of detention and demurrage charges when equipment cannot be returned or containers cannot be picked up during the free period, for reasons beyond the control of the shipper, receiver or motor carrier, render U.S. exports less competitive in the global markets, and imports more costly for US consumers and manufacturers.

Currently, ocean carriers are imposing demurrage fees even when the container is not physically available to be picked up, and detention fees when the terminal is not accessible for the container to be returned. With ongoing challenges posed by the coronavirus, there is real concern about these fees being assessed when there are equipment issues beyond the control of the shipper or motor carrier. Thus, these fees appear to be punitive measures by the ocean carriers, not an incentive to expedite container flow.

We believe that the approach of the Proposed Interpretive Rule which provides guidance for when a detention or demurrage charge can or cannot be fairly imposed is the correct one. It is certainly appropriate that a container must be able to be returned before a detention charge may be assessed and a container must be "available" for pickup before a demurrage charge may be imposed. For some larger shippers, the specifics as to when and how these charges are assessed can be established through contract negotiations. Additionally, if a dispute arises, the reasonableness of any particular charge can be evaluated through the Commission's complaint process based on the specific facts and circumstances.

Again, we appreciate the Commission's thorough investigation of demurrage and detention practices and strongly support its Proposed Interpretive Rule. We respectfully urge the Commission to promptly adopt the rule as published which will assist the maritime industry in evaluating the fairness of these charges and resolving potential disputes.

Sincerely,

1. Agriculture Transportation Coalition
2. Airforwarders Association
3. American Chemistry Council
4. American Cotton Shippers Association
5. American Pulse Association
6. American Seed Trade Association
7. American Trucking Association
8. Association of Bi State Motor Carriers
9. Association of Food Industries
10. Atlanta International Forwarders and Brokers Association
11. Auto Care Association
12. Boston Customs Brokers and Forwarders Association
13. California Trucking Association
14. Charlotte International Freight Forwarders and Customs Brokers Association
15. Columbia River Customs Brokers & Forwarders Association
16. Corn Refiners Association
17. Customs Brokers and Forwarders Association of Northern California
18. Customs Brokers and Freight Forwarders Association of Charleston
19. Customs Brokers and International Freight Forwarders Association of Washington State
20. Florida Customs Brokers and Forwarders Association
21. Harbor Trucking Association
22. Houston Customs Brokers and Freight Forwarders Association
23. Independent Freight Forwarders and Customs Brokers of Savannah, Inc.
24. International Association of Movers (IAM)
25. International Compliance Professionals Association
26. Intermodal Motor Carriers Conference
27. JFK Airport Customs Brokers and Freight Forwarders Association
28. Juvenile Products Manufacturers Association
29. Leather and Hide Council of America
30. Los Angeles Customs Brokers & Freight Forwarders Association
31. Meat Import Council of America
32. Memphis World Trade Association
33. National Cotton Council
34. National Customs Brokers and Forwarders Association of America
35. National Federation of Independent Business
36. National Hay Association
37. National Industrial Transportation League
38. National Onion Association
39. National Pork Producers Council
40. National Retail Federation
41. National Shooting Sports Foundation
42. New York New Jersey Foreign Freight Forwarders and Brokers Association
43. North American Meat Institute

44. Northern Border Customs Brokers Association
45. Northern Pulse Growers Association
46. Oregon Seed Association
47. Pacific Coast Council of Custom Brokers and Freight Forwarders Assns. Inc.
48. Pacific Northwest Asia Shippers Association
49. Pacific Northwest Defense Coalition
50. Produce Marketing Association
51. Retail Industry Leaders Association
52. San Diego Customs Brokers Association
53. Specialty Crop Trade Council
54. Specialty Soya and Grains Alliance
55. Tea Association of the U.S.A., Inc.
56. The Green Coffee Association
57. The Wine Institute
58. Transportation Intermediaries Association
59. USA Dry Pea and Lentil Council
60. U.S. Dairy Export Council
61. U.S. Forage Export Council
62. U.S. Pea and Lentil Association
63. U.S. Shippers Association
64. West Texas and New Mexico Customs Brokers Association
65. Western Pulse Growers Association
66. Wine and Spirits Shippers Association
67. Worldwide Fresh Shippers Association

CC: Commissioner Rebecca Dye
Commissioner Daniel Maffei
Commissioner Louis Sola
Commissioner Carl Bentzel

CC: Senator Roger Wicker, Chairman, U.S. Senate Committee on Commerce, Science, and Transportation
Senator Maria Cantwell, Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation
Senator Cory Gardner, Chairman, U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Science, Oceans, Fisheries, and Weather
Senator Tammy Baldwin, Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Science, Oceans, Fisheries, and Weather
Representative Peter DeFazio, Chairman, House Committee on Transportation and Infrastructure
Representative Sam Graves, Ranking Member, House Committee on Transportation and Infrastructure
Representative Sean Patrick Maloney, Chairman, House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation
Representative Bob Gibbs, Ranking Member, House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation