



DRAFT COMMENT LETTER TO FMC

10/15/19

Rachel E. Dickon
Secretary
Federal Maritime Commission
800 North Capitol Street NW
Washington, DC 20573-0001

Sent via email to : Secretary@fmc.gov

Re: Docket 19-05, Demurrage & Detention Comments

Hon. Commissioners:

This letter is being sent in response to the solicitation for comments issued in conjunction with notice of proposed rule making for the "Interpretive Rule on Demurrage and Detention under the Shipping Act".

Our company currently operates drayage trucks in and out of the Ports of Los Angeles, Long Beach and Oakland and have come to experience, first hand, the detrimental business and operational impacts from current detention and demurrage practices administered by marine terminal operators and steamship lines. Due to practices and decisions out of operational control of the trucking industry like in consistent gate closures, unavailability of containers, the incredible bunching that occurs during peaks and finally disposition of empties, it has resulted in missed appointments, increased costs and inefficiencies throughout the supply chain.

Specific examples of inefficient terminal practices, similar to those described in the Interpretive Rule, that our company has recently encountered include:

(CITE SPECIFIC EXAMPLES OF GATE CLOSURES, CARGO UNAVAILABILITY, ETC. INCLUDING DATES, NAME OF TERMINAL AND DESCRIPTION OF ACT)

We are pleased that the Interpretive Rule seeks to align demurrage/detention rules and practices with their intended purpose of incentivizing efficient cargo handling and delivery. We fully support suspension of charges (or at least extension of free time) where efficiency incentives are not able to be achieved and the reason for the inefficiencies are outside the control of the drayage operator. In addition, we agree with your finding that notice of actual cargo availability will vastly improve port efficiencies and the US freight delivery system. Knowing when cargo is actually available will help ensure that pickup is timely scheduled—reducing idle time and wasted hours truckers spend waiting for containers to become available. Free time should be tied to actual cargo availability and defined by

national (or regional) rules and definitions, since efficient cargo pickup cannot be incentivized if the cargo may not yet be available (i.e. held in a closed yard or location at the terminal).

The Interpretive Rule has also correctly found that the manner in which notice of cargo availability is communicated is a critical aspect of reasonableness. Notice must be timely and readily accessible to the

contracting party or its designee and must provide clear information as to when and where cargo may be retrieved, such as in “push notices”.

Lastly, the Interpretive Rule has properly identified the types of policies, rules and practices that would greatly improve dispute resolution processes. Defined time frames should apply to both filing and responding to claims and must operate to facilitate resolution of disputes and not unreasonably cut off claims. Likewise, we strongly support the FMC’s proposal encouraging the identification of information that can facilitate dispute resolution, such as appointment logs and trouble tickets.

For the reasons stated above, as well as the specific operational examples cited, the FMC should proceed to adopt its proposed Interpretive Rule promptly. We would also respectfully request that the specific recommendations contained in the body of the Interpretive Rule be stated fully in the amended CFR text, as proposed.

We appreciate the opportunity to provide these comments and look forward to answering any additional questions you may have.

Regards,

COMPANY NAME AND TITLE OF SIGNING OFFICER