



September 14, 2022

Via Online Submission

The Honorable Daniel Maffei
Chair
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

RE: Docket No. 22-19, Request for Information

Dear Chairman Maffei,

The Retail Industry Leaders Association (RILA), on behalf of its members, is pleased to respond to the Federal Maritime Commission's (FMC) August 11, 2022, request for public comment on whether supply chain congestion has created conditions warranting the issuance of an emergency order requiring common carriers and marine terminal operators (MTOs) to share key information with shippers, truckers, and railroads. RILA strongly supports the issuance of such an emergency order.

RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs, and more than 200,000 stores, manufacturing facilities, and distribution centers domestically and abroad. RILA's membership includes 9 of the 15 largest importers in the United States.

The COVID-19 pandemic brought unprecedented global disruption and exposed weaknesses in America's supply chain networks. Retail supply chains remain strained and saddled with continuing unplanned costs and delays due to an extraordinary confluence of circumstances: COVID lockdowns, power shortages, labor concerns, constrained capacity, equipment shortages, and scheduling and technology challenges.

The Ocean Shipping Reform Act of 2022 (OSRA) provides the FMC with an important tool to address congestion at the nation's ports. By authorizing the FMC to issue an emergency order requiring information sharing by common carriers and marine terminal operators with shippers, truckers, and railroads it has the opportunity to alleviate current and long-term constraints that hamper the efficient operation of our supply chain infrastructure. The pandemic, while exposing weakness, has also caused ongoing shifts in the cargo volumes by port, region, and times of year, which may exacerbate the underlying problems in the supply chain and lead to congestion and disruptions across all U.S. ports.

These shifts are leading to multiple ports experiencing congestion which has unequivocally resulted in an ongoing "substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system." This is why the FMC should look broadly at using its emergency powers

to look beyond a single port or region and apply the emergency designation to the ports that are strategically significant to the majority of freight movement, and have historically and recently seen an uptick in disruptions and inefficiencies.

It has long been recognized that inadequate information sharing is a systemic issue affecting the operations of U.S. ports, and negatively impacts the global supply chain, impeding retailers' ability to move freight and goods efficiently. Over two and a half years into the global COVID pandemic, supply chains and ports continue to experience significant disruption, therefore we urge the FMC to institute an emergency order encompassing the country's top ten container ports by volume. The national supply chain and seaports are a system of systems, and changes or disruptions at any point virtually always have ripple effects throughout the network. It is better to obviate a potential emergency situation by applying the FMC's authority across a broad cross section of the supply chain infrastructure, which will hopefully alleviate future congestion touch points and ensure that consumers have access to the products they want and need.

It is logical that increased data sharing will alleviate persistent challenges and provide much-needed visibility across the entire supply chain ecosystem. The emergency order should address some of the key points of communication and visibility that have consistently been an issue, including:

- Total numbers and dwell times (age) for loaded and empty containers at terminals: This information (including anticipated daily import/export volumes) would increase transparency and provide a more accurate picture of freight fluidity, as well as helping address the issue of container shortages and the persistent issue of empty containers that contribute to port congestion when allowed to build to untenable quantities.
- Appointment times and availability: Greater clarity and transparency concerning the number and types of appointments available/remaining (including relative to the number necessary based on expected volume) and details of usage/cancellations would enable greater plannability for shippers, truckers, and other stakeholders. This is especially relevant in light of the need for dual transactions and empty return.
- Empty container return: Comprehensive and consistent communication of empty container return days/times, locations, and processes will help alleviate the "guessing game" and restrictive policies that have made timely and efficient return of empties, and dual transactions, an ongoing challenge.
- Access to containers: Ongoing congestion and acute flare-ups frequently create instances where access is restricted—gates or portions of terminals closed, containers not accessible/available, unavailability of appointments, or other restrictions—creating further obstacles to freight movement and leading to detention and demurrage disputes. Consistent communication and tracking/reporting of such instances will lead to greater visibility and fluidity.

To address ongoing supply chain issues, any emergency order concerning information sharing should incorporate—though not necessarily be limited to—these components.

Furthermore, while a 60-day emergency order will help address current disruptions the FMC should consider extending any 60-day order to cover the length of its authority, setting a precedent for information sharing not only during this "state of emergency" but indefinitely going forward, to prevent future states of emergency. Continued data sharing and transparency will help build a more resilient,

transparent, and efficient supply chain, averting an ongoing cycle of congestion in the longer term and ensuring that U.S. ports remain globally competitive to spur economic growth.

RILA appreciates the opportunity to comment on the Proposed Rulemaking. We urge the FMC to take immediate action on an emergency order requiring information sharing to help alleviate supply chain disruption and port congestion across the identified ports. This forward-looking action will provide invaluable information and insights in the supply chain and promote U.S. economic growth.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'SG', with a long horizontal flourish extending to the right.

Sarah Gilmore
Director, Supply Chain
Retail Industry Leaders Association

cc: Commissioner Rebecca F. Dye
Commissioner Louis E. Sola
Commissioner Carl W. Bentzel
Commissioner Max Vekich