



**Comments of the Intermodal Motor Carriers Conference on the Federal Maritime Commission  
Request for Information Regarding An Emergency Situation Determination  
Docket No. 22-19**

The Intermodal Motor Carriers Conference (IMCC) is pleased to provide our views on the Federal Maritime Commission's Request for Information regarding whether an emergency situation exists that has a substantial adverse effect on the competitiveness and reliability of the international ocean transportation supply system. The IMCC is an affiliated conference of the American Trucking Associations (ATA), representing the subset of ATA members who operate at our nation's ports and inland intermodal facilities. Members of the IMCC have a vital interest in the issues outlined in the Request for Information.

Section 18 of the Ocean Shipping Reform Act of 2022 authorizes the Federal Maritime Commission to issue an emergency order requiring any common carrier or marine terminal operator to share certain information with shippers and other specified entities when the Commission unanimously determines that congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international transportation supply system. This Request for Information is seeking information regarding whether the international supply chain currently meets the law's specific criteria for such an emergency situation order. Specifically, the Commission is seeking information regarding, (1) whether congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system, (2) whether an emergency order under Section 18 would alleviate such an emergency situation, and (3) the appropriate scope of such an emergency order, if applicable.

It is IMCC's view that the FMC must declare that an emergency situation does currently exist in the international transportation supply system. From the nation's ports to the inland intermodal facilities, the lack of reliability, level of congestion and overall inefficiency has created a situation where the flow of goods is significantly impeded, creating the substantial adverse effect outlined in the law. One of the critical elements that has led to the issues around reliability and competitiveness in the supply chain is the unwillingness of ocean carriers and marine terminal operators to share critical data with their supply chain partners. By issuing an emergency order, the Federal Maritime Commission has the ability to require the type of critical information sharing that is lacking. Through ensuring that all parties in the supply chain have access to the data they need to operate more efficiently, FMC will help to significantly alleviate some of the key issues that have created the supply chain roadblocks that lead to inefficiencies and additional costs in the supply chain, costs which are ultimately paid by the American consumer in the form of higher prices.

**Critical Motor Carrier Congestion Issues Impacting Competitiveness and Reliability**

There is little question that the last 18 months have seen an extraordinary level of congestion at the nation's ports. While there have been issues in all aspects of the supply chain, for motor carriers the most significant and ongoing congestion problem has been around the issue of empty container return availability. The lack of a consistent ability to return empty containers to ports and the absence of information around return availability has had a cascading effect with a major negative impact for the



reliability of the supply chain. Every day, motor carriers who are attempting to return containers are faced with challenges around critical issues such as limited return locations, constantly changing information, lack of transparency, limitations or requirements around appointment availability and a host of other problems. These bottlenecks limit the ability of motor carriers to plan their operations effectively and also force companies to store containers in their yard, incurring additional detention charges that will be passed on to shippers and eventually consumers. Motor carrier yards full of empty containers also exacerbates the shortage of chassis that is perhaps the largest obstacle currently being faced by the international marine supply chain due to tariffs and limited domestic manufacturing. Additional information sharing for the empty return process is badly needed and finding solutions through greater information sharing on this issue would make a significant difference in the ability to move freight more effectively through the supply chain. The empty return issues were outlined in letters sent to the FMC recently by the Association of Bi-State Motor Carriers, Harbor Trucking Association and the National Industrial Transportation League.

It is motor carriers that bear the brunt of this lack of alignment around information sharing and the failure of ocean carriers and MTO's to share the information needed to increase throughput. Ultimately the issues around empty returns and the chassis shortage that has resulted lead to significant limitations around the ability to pick up newly arriving imported containers and results in increased dwell time for imports on docks. This has led ports such as Los Angeles/ Long Beach and New York/New Jersey to threaten to impose dwell fees when containers sit on docks for extended periods or when ocean carriers are not removing a sufficient number of empties.

Beyond the issues created by the uncertainty around empty container return, motor carriers operating at the nation's ports also continue to face additional significant operational challenges that create the conditions sufficient for the issuance of an emergency order. Truckers working at the ports continue to face difficulty accessing containers and ports often provide little visibility into when containers may become available. This type of information is critical to enable motor carriers to deploy their drivers in the most efficient manner. Different appointment systems at terminals within larger port complexes, dual appointment requirements, lack of available appointments and inadequate communications around appointments all combine to create additional complications rather than increase efficiencies. Greater information sharing requirements could help to relieve these issues significantly as well.

Together the difficulty in accessing containers and returning empties as well as the shortage of available chassis has created exactly the emergency situation this provision of OSRA was designed to alleviate. IMCC would urge FMC to recognize the current state of the international freight supply chain warrants an emergency declaration. Our recommendations for the scope of the information sharing that should be required are outlined below.

### **Information Sharing Recommendations to Improve Cargo Throughput and Availability**

The inability to return empty containers creates a major impediment to the movement of freight. It reduces capacity, clogs motor carrier yards, significantly increases detention charges and ties up chassis that are badly needed to move other containers. Motor carriers are particularly frustrated with the lack of communication from ocean carriers and MTO's around locations and availability. An FMC order requiring additional information in this area would be particularly welcome.



Critical empty return and chassis availability information that should be required to be shared by ocean carriers/marine terminal operators:

- Total number of empty returns being accepted each day at a location sorted by ocean carrier, equipment size and type
- Total number of containers on last free day sorted by ocean carrier
- Number of appointments available for each type of equipment with ongoing notification as appointments are no longer available
- Notification when all appointments are booked or returns are no longer available
- 24 hour notice regarding changes to empty return locations
- Requirements around any restrictions to empty returns or pickups such as dual transaction requirements
- Chassis availability and any restrictions regarding chassis usage

All of these data points are critical to enable motor carriers to best utilize their assets in order to maximize cargo throughput. They would also allow for greater visibility into key chokepoints at terminals and provide a far clearer picture of the current state of cargo movement. Some of these key data points, especially those around the appointment system, are also critical for the pickup of freight from terminal facilities. Motor carriers need realtime access and notifications regarding appointment availability in order to operate as efficiently as possible. The issue of chassis availability is perhaps the single most critical chokepoint in the supply chain and information is poorly communicated and lacks consistency. Ocean carriers and MTO's are in a far better position to obtain and consistently communicate information around availability and should be required to do so.

Additionally, FMC should require that ocean carriers and MTO's provide push notifications of all notices to motor carriers and all such notices should be required to be archived and accessible at later dates if necessary for dispute resolution. OSRA places the burden of proof for charge complaints on the common carrier and requiring the archiving of notices regarding return availability is in line with this new mandate. Today, motor carriers must spend time and resources ensuring the preservation of records so they can document ever changing information for potential future disputes. These resources would be far better spent accomplishing the goal of moving cargo through the supply chain and ensuring the archiving of these notices would significantly reduce this recordkeeping burden.

Additional information that should be required:

- MTO's must provide notice when they are temporarily closed or unable to process trucks during normal business hours due to issues such as congestion, traffic control or other reasons
- MTO's must provide ETA's of container availability out of closed yard locations
- MTO's must provide advanced notice of container location changes

Inefficiencies by MTO's result in major ongoing disruptions and costs for motor carriers. Trucking companies should be alerted immediately if terminals are unable to accept trucks at any port during normal business hours even if the terminal is not technically closed. This would allow motor carriers to better deploy resources elsewhere as well as provide the documentation needed to prevent unlawful detention or demurrage charges. Information around container availability will also contribute significantly to increasing throughput. MTO's should be working to assist motor carriers in operating as efficiently and effectively as possible by providing notice in advance of when containers will become available.



## **Conclusion**

IMCC urges the FMC to exercise its authority to issue an emergency order and to require that ocean carriers and marine terminal operators share the information above with motor carriers. These key data points will help to provide clear visibility into where bottlenecks are developing and will help all parties in the supply chain to plan and deploy their assets most effectively. Much of the information sharing outlined above will have the additional benefit of ensuring that detention and demurrage cannot be charged when empty returns are not available, containers are not yet ready for pick up or other conditions outside motor carrier control prevents the movement of freight. It is long past time for all parties in the supply chain to work together to focus on moving product efficiently through the system. This is exactly the reason the Ocean Shipping Reform Act was enacted and the Federal Maritime Commission should use all the powers it provides to protect American consumers from unnecessary costs due to supply chain inefficiencies.