

**Comments of the Agriculture Transportation Coalition
Docket No. 22-19 Request for Information
September 14, 2022**

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STATEMENT OF INTEREST

The Agriculture Transportation Coalition (AgTC) represents the interests of United States agriculture and forest products exporters and importers seeking dependable and affordable transportation to support growing international market share. Virtually all agriculture commodities and every state are represented.

- There is nothing produced in agriculture in the US that cannot be sourced (or substituted with the product) from elsewhere in the world.
- Experience has shown that if we cannot deliver affordably and dependably, our customers can and will find those other sources, and we will lose those markets.

Assuring transportation services that advance the competitiveness of US agriculture in global markets is the fundamental objective of the AgTC

Over the past 3 years and continuing unabated today, the actions of ocean carriers and marine terminals, while apparently enormously profitable for them, have been enormously damaging to US agriculture and forest products exporters (as they have been to most all exporters and importers). The carriers' actions have motivated the Federal Maritime Commission (the Commission) and Congress to take unprecedented action to protect the interests of the US shipping public. According to the sponsors of the Ocean Shipping Reform Act of 2022 (OSRA), a primary motivation was (and remains) their concern about the impact on US agriculture competitiveness.

Congestion at US ports, leading to delay and many additional costs, plus the imposition of, collectively, hundreds of millions of dollars of detention and demurrage charges on US shippers each year, is well known. Agriculture exporters and importers and others sought scrutiny of the carriers' actions, which have and continue to contribute significantly to the congestion and the resulting delays, multiple layers of additional costs, our members' inability to dependably deliver to foreign customers timely, with resulting loss of revenue and sales. Thus, the current Request for Information is welcomed.

Congress recognized that ocean carriers and marine terminals play a significant role in creating this untenable situation, enacting OSRA with restrictions on carrier practices, authority for the Commission, and new mandates for carriers. As found in Section 18 of OSRA, one of the carrier and terminal practices which Congress specifically felt deserved further attention by the Commission, was carrier and terminal refusal to provide information that would facilitate cargo fluidity, would reduce cost, delay and congestion.

Congress authorized the Commission to issue an emergency order requiring carriers and terminal operators to share certain information with shippers and others. As described by AgTC member exporters, importers, truckers and freight forwarders in these Comments, carrier and terminal failure, even refusal, to provide essential information, accurately and timely, is a significant contributor to the current and continuing congestion crisis as the marine terminals, severely impacting the ability of US agriculture to deliver dependably and affordably.

AgTC members as well as all other port stakeholders (importers, exporters, truckers, forwarders, customs brokers) welcomed initiatives by port authorities, beginning with the Port of Los Angeles "Port Optimizer", and followed by other programs at other ports, to

collect essential information from carriers and terminals, to be made available in central port-wide data portals. The refusal of carriers and terminals to submit essential information cannot be allowed to continue. These central portals would significantly reduce confusion, cost and congestion at our port complexes, there is no technological reason they should not exist at every port.

Ocean carrier refusal/failure to share fundamental information, leading to congestion as described herein, is currently accompanied by carriers' most profitable period since containerization. Those profits are generated in significant part by draconian detention and demurrage charges, that are frequently the result of the congestion that stymies cargo fluidity through our ports. As reported repeatedly in the press, these "D&D" charges imposed on exports and imports through US ports have no equal in the rest of the world. Those are additional costs (in addition to the congestion itself) borne by US agriculture exporters that are not imposed on our competitors elsewhere in the world, who thereby gain significant competitive advantage in selling to our overseas markets.

AgTC MEMBERS SUBMIT 100 RESPONSES TO COMMISSION'S REQUEST FOR INFORMATION

Pursuant to Section 18 of OSRA, the Commission's Request for Information poses three questions:

- Has congestion created an emergency situation of a magnitude, with substantial, adverse effect on competitiveness and reliability of the international ocean transport supply system?
- Would an emergency order (under Section 18) alleviate the emergency?
- What would be an appropriate scope of such an emergency order?

The objective of the AgTC in submitting these Comments is to assist the Commission in reaching conclusions as to the ongoing emergency, the causes and impact of the congestion, and the specific carrier and terminal practices that should be addressed in an order.

Process for collection and submission of AgTC Comments

To do so, AgTC member shippers, forwarders and truckers have submitted 100 specific descriptions of carrier and terminal practices that are contributing to the current emergency situation. These examples provide the Commission with an inventory of the practices appropriate to address in the scope of an emergency order.

Each submission is followed by a footnote, by which the person submitting is inventoried in our records. Following submission and review of these Comments, the Commission may wish to review various examples with the persons who submitted them. In such cases, the AgTC will facilitate an introduction of the Commission staff with appropriate persons.

Summary of 100 Examples/Descriptions Submitted by AgTC

- 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 system. We provide below 100 more explanations of specific components of the emergency situation.
- An emergency order mandating carriers and terminals to share certain information with shippers and others, including reasonable, workable notice, would significantly reduce congestion, and the resulting delays, unnecessary costs and other burdens on our competitiveness. Such an order is needed immediately.
- The scope of such an emergency order, in particular the specific information which should be mandated, the means and timing of conveyance, and to whom, necessary to curtail or reduce congestion, is described within the 100 submissions below.
- Ocean carriers should convey information to their contracted customer exporters and importers, but also to the truckers, freight forwarders, customs brokers, since they play a key role in the carriage and facilitation of the import or export of the cargo. They are generally in the best position to utilize information to avoid or minimize congestion.
- Ocean carriers should also convey information to Port Authorities which have sought to address dysfunction leading to congestion: by establishing central data portals by which information can be made accessible to shippers and their service providers.

DESCRIPTIONS AND EXAMPLES OF CONGESTION, IMPACT, CAUSES, SOLUTIONS

Introduction: Congestion Creates an Emergency Situation

Port and terminal congestion occurs when vessels arrive and are unable to load or unload. Congestion and lack of information have caused many additional charges, missed contracted shipping windows, leading to a significant decrease in operational efficiency. With increased consumer demand, congestion negatively impacts supply chain management causing delays and lowering productivity. Further, congestion is not only a problem with ports and ocean carriers but cascades to the truck, rail, warehouse, and shipper operations.¹

This results in multiple levels of operational failures at many points of service that diminish our competitiveness.²

As congestion increases, so do carriers' profits, while shippers incur unprecedented costs and fees. The ongoing port and terminal congestion creates an emergency situation negatively affecting businesses that are losing markets and increasing operational costs.³

Examples:

Congestion is top among the difficulties that inhibit the outbound team from performing at a reasonably productive rate. Consistently congested terminals in LA/Long Beach are FMS, TTI, APM, TRAPAC, and WBCT Terminal congestion at TTI (Long Beach, CA). During May through early July, turnaround times were between 4-6 hours, with drivers primarily waiting to get into the terminal. There have been occasions when the line to get into the terminal was so backed up that Highway Patrol closed the road due to the terminal congestion, forcing drivers back to the facility.⁴

Congestion is exacerbated by the shipping lines not giving space for exports.⁵

Earliest Return Date

Carriers do not commit to the Earliest Return Date (ERD). They will try to maintain their pro forma cutoff even though simple vessel tracking clearly shows its way off. The carriers bill shippers around \$180-\$240 per day, and their lack of commitment causes per diem and demurrage to accrue. Per diem is worse since they already own the containers, so they have no real operational cost other than their theories of perceived loss of use when it sits. The congestion and the lack of communication lead to billings. The carriers should agree to allow the Ports to set the ERDs based on the time the ports plan on bringing the ships in.⁶

ERD is supposed to be 3-4 days; however, currently, we get a day and a half.⁷

This causes congestion because everyone tries to get an appointment within that timeframe.⁸

Terminal websites and carrier websites often have differing ERD and Cutoffs.⁹

Shipping lines change their ERD/CUT dates suddenly, and they do not update the port.¹⁰

Examples:

At Evergreen and Oakland, you have one day to return boxes with a 4-mile line. At LA, Long Beach, and Oakland, ERDS are set with 72 hours, another 72 minimum to turn boxes in from ERD to cutoff.¹¹

Shippers deliver by what the port says, and when there is a dispute, the shipping lines state that shippers must go by what the shipping lines say. Next time the company goes by what the shipping lines say, but the shipping lines have not updated that to the port, so the port stops the container truck.¹²

If the carrier announces an ERD/last receiving date (LRD) on the same day, every trucker in the area is heading to the port at the time of announcement to ensure the per diem clock stops and makes the cut-off.¹³

Schedule Unreliability

The congestion at ports is causing carriers to shift their routes and skip specific ports. Their vessels can sit parked outside a terminal for only so long.¹⁴

The higher number of congested ports means they skip ports (like Oakland) to save time. This shifting of routes takes services away from specific loading ports, which shifts all demand to the remaining services that hit specific port pairs, which boosts the O/F rates for that route.¹⁵

There is not enough time to get loads with the lack of receiving windows. The industry is used to four to five days of receiving and now has two to four days. Two and three days is not enough time. When vessel schedules are updated last minute, there is not enough time to react. Terminals updating the ERD for tomorrow, and cutoff is in 2-3 days, which is not enough time.¹⁶

The inability of the terminals to predict the availability and off-loading of the import containers is hurting not only carriers and ports but truckers and warehouse operations too.¹⁷

The time between reliable information is paramount for the supply chain to react and ship with minimal extra costs.¹⁸

Examples:

The carriers move shippers' orders with the vessel. If the vessel comes in late due to various reasons, including overseas factors, one must push back to advance their vessel to get closer to the original date targets. Yet, imports have come in and sat for several months under 1400 containers, while other containers, with the same supplier and route, went to the West Coast and arrived in the Midwest in three days. The newer order arriving before the older order shows a lack of consistency. If you inquire, you get different answers to the same question. The messages are "embargo" due to rail and port congestion, and one cannot book. Then, 10 minutes later, when working with someone else in the same carrier, you have a booking who says they know nothing about an embargo. Carriers have said a shipment is in Norfolk when I know it has arrived and the consignee took possession of it.¹⁹

They are also facing challenges due to void or blank sailings. It is sometimes necessary to blank or void a sailing, but it should be announced at least four weeks from the scheduled cut off. Void or blank sailings is hurting space availability, perhaps the intended purpose. For example, an initial order was for cut off the 2nd or 3rd week of August. On 8/2, they were informed of blank sailing, so they moved the booking to another with a 9/6 cut off. They were recently told that the vessel will now blank, and they had to shift to another vessel. This highlights the challenges that shippers face, such as not always getting space as easily with short notice.²⁰

TRAPAC and TTI Terminals have the most congestion. TRAPAC has been leaving drivers in the terminal until closing and kicking them out with the container. This leaves the driver to stay the night to try to re-ingate with the same ticket. Occasionally it works, and sometimes we must reach out to TRAPAC to release the container to be able to secure an appt to re-ingate again. TTI is most likely to advance Vessels, and the Shipping Lines do not advise in a timely matter.²¹

Another example is when a container needed to move at 8 AM with a scheduled driver, but the reefers were not there. At 3 PM that same day, the terminal finally updated the status of the reefer and container; however, the driver could not wait that long and had to leave.²²

Information Gaps

Lack of information causes inefficiencies throughout the supply chain.²³

It is vital to require carriers and terminals to provide accurate and matching information to shippers. Shippers spend hundreds of hours per month tracking down basic information that used to be easy to find.²⁴

Once a container is discharged to a terminal, shippers receive minimal information until it gets connected to the rail. It has no information on the containers' location in the terminal and how long it will take to connect to the rail. If shippers had this information, they could invest less time in deciding to ship the same freight via air vs. wait and see. It also reduces the man-hour on the carrier's end because shippers would no longer ask the questions to the SSL team.²⁵

When last-minute changes occur without notification, the shipper is responsible to pay. The requests not to get charged container fees from the SSL receive no response. Meanwhile, shippers incurred chassis charges and storage charges. Unloading the product would result in paying to return an empty container and the trucking charge. In any situation, shippers lose profit.²⁶

Incomplete and poor data quality impacts product visibility to the exporter and client base. A concern is the carriers providing poor-quality information. The unreliability of carrier data is cumbersome, wastes time and resources, and adds unnecessary costs. With market power distorted towards carriers, the market has failed to incentivize

carrier investment in information management systems, pushing the burden and expense of these inefficiencies to shippers and their customers. Some carriers are decades behind in this realm and have had no incentive to catch up.²⁷

When the terminal and steamship lines give conflicting information, it negatively affects the efficiency of shippers.²⁸

One issue is how the Last Free Day on Terminal (LFD) for import containers is provided to truckers/consignees. Before the Ocean Shipping Reform Act (OSRA) was passed this year, LFD was provided on the terminal website. This was a streamlined method since truckers/consignees could verify the LFD when verifying availability. Now, depending on the steamship line, truckers/consignees must reach out to the Steamship Line for the Last Free Day, making it a manual process requiring e-mails and phone calls. These calls usually require multiple follow-ups due to no response by the steamship lines. Often, the terminal, e-Modal, and SSL will show different LFD. This makes it difficult for the consignee to avoid demurrage, especially given extremely limited terminal appointments. SSLs need to provide the current LFD to the terminal, and the terminal should be required to post it accurately. LFD is not provided efficiently. The Everport website has been posting inaccurate import statuses for months.²⁹

Examples:

Due to the information gaps, we have had to add staff to process this information. This adds to the costs of doing business.³⁰

There are still incidents where vessels sail, and documents are released in the wrong quantity compared to what is loaded. Container and seal discrepancies between documentation and vessel cause inaccurate and delayed shipping documents and potential unplanned costs. Ocean carriers load shipments to booked vessels without splits or rolls when cargo is received by port cutoffs and/or intermodal cutoffs. In the event of a split or if a roll is unavoidable, ocean carriers should offer merchants the option to combine bookings (administrative, equipment, and terminal) at no additional charges to reduce collective rework, the number of Original Bill of Landings (OBLs), document sets, and Letter of Credit (LC) negotiation delays to improve overall shipper trade-to-cash cycle.³¹

For example, when an import container shows Available, a trucker makes a terminal appointment, a trucker sends a driver in, and then the container is suddenly in a closed area, and the driver cannot out-gate. Many containers in closed yard locations at Everport Oakland still show as Available. Accurate statuses would ensure that truckers are not sent to the terminal for containers that are stuck in closed areas. This would directly affect and improve congestion. The problem is that the terminal's response is to use the night gate. Drivers work day shifts because that is when the shippers work. Terminals will also cancel night gates without any notice.³²

Shippers spend more time on the phone with customer service representatives than performing their jobs. When there are no vessels, availability, receive date, and updated

information on carrier and terminal websites, these time-consuming tasks fall to the workers.³³

Containers

Many times, there are too many containers on the vessel, which does not allow vessels to achieve transit times. When terminals take in too many containers, this creates congestion. This causes a compounding effect costing shippers time and money and decreasing efficiency. Shippers are charged with demurrage and billed for empty containers. Also, there is an issue with terminal capacity for inspections of containers. Terminals are far exceeding their capacity. This inspection process has no visibility or transparency when they bill you.³⁴

Examples:

A company selling fresh produce with main commodity imports from South America has an average wait time into Long Beach, CA of 64 days, which far exceeds the shelf life of their product. Vessels are reporting 20–25-day transit lines and blaming others. There is a lack of accountability and responsibility. Terminals need to manage expectations about the availability and space of these containers, so they do not have congestion.³⁵

Containers are available on a Monday morning or any day partially through the day with a last free day of tomorrow. This creates a fire drill because it is not two days of free time to pull out the reefers. It also is random timing and makes it almost impossible for the receiving warehouse to plan for labor to unload the import containers. Two free days need to be two full 24-hour days, not a partial day. If a container is available after the terminal is open, it needs to be the last free day two days after the first day a trucker could either retrieve it or schedule an appointment to retrieve the container. Thus, the truckers are getting squeezed on both sides because the terminal is unable to provide reliable and reasonable time windows to retrieve containers; once the container is out of the warehouse, truckers cannot unload the container in a reasonable amount of time. This has forced shippers to order more equipment to accommodate drops but leaves them holding the bag to deal with per diem for containers out past free time. They have tried to get some per diem direct billed to their customers, and so far, the Shipping Line Response is that it must be contractual, and very few end customers are allowed to receive the per diem direct. Unrecouped per diem directly impacts their bottom line and is not something they negotiate.³⁶

Injury to Company

Congestion and lack of information have certainly hurt sales and damaged shippers' reputations as it has become very challenging to execute a contract and ship to meet the requested ETA. If shippers had more timely information about delays or advancements, they would be able to look to book another vessel. The lack of information has increased costs.³⁷

Examples:

Shipments are packed based on the schedules provided by the carriers. When shippers cannot get a container due to congestion or vessel delays, they must put the shipment back under fumigation, which involves additional labor and costs. Also, this takes up warehouse space and slows down overall production. If a container has been loaded and returned to the port but misses the vessel cutoff due to congestion or lack of available return appointments; it is taken into storage and the shippers receive storage fees, additional chassis rental fees, yard pull fees which are at a minimum \$500/container. Shipping staff is also spending more time monitoring the schedules as there is usually a difference in information given by the terminal and carriers. The lack of information does impact incurred costs and efficiency.³⁸

One team is spending 40% of their time managing LFD for the ocean carrier by taking screenshots of the terminal emails to give the ocean carrier LDF extensions for unavailable containers. They are also managing incorrect invoices. They have been billed over \$50,000 in demurrage on containers that were not available, and they had to go back to the terminal to prove containers were not available. They had to hire another full-time person to manage the additional work created by the technology gap. Instead of filling this technology gap on the ocean carriers' end, they are making their customers do the work manually. Their staff is also taking daily screenshots of the terminal website to prove these issues because they cannot get information from carriers leading them to have a daily database of screenshots. This is a ridiculous cost to the company for manpower to document the issues.

They had to hire another full-time person due to the ocean carrier's refusal to communicate directly with the terminal about container availability. It takes hours each day to research D&D invoices and real time LFD information for containers stuck in stacks.

The congestion is negatively affecting businesses that have lost a lot of business because their clients are going to cheaper products that are available and on hand. Specific industries must have their products on time. This is not possible when carriers are running three months behind on the original estimated time of arrival (ETAs), port congestion, and not getting to containers for over a month. Some businesses had to close because they could not get their products in on time.³⁹

Many ocean carriers suspended services from West Coast to the Indian Subcontinent, the Middle East, Europe, and the Mediterranean, making it impossible for Agricultural shippers on the West Coast to compete with shippers from the East Coast. The drayage and freight cost for lanes that still exist also skyrocketed on the West Coast, making prices non-competitive in a global market.⁴⁰

In terms of the shippers, they are unreliable because the schedule changes affect everyone in the industry. They are less competitive compared to other International Markets that are not suffering the same situation.⁴¹

Another issue is that shippers are losing business globally. Carriers have pulled service for Europe and Latin America. Due to congestion and high costs, carriers prefer other ports, which has become an issue for Seattle and Tacoma and the competitiveness of

USA exports. Some Carriers exhibit uncompetitive behavior against shipper associations, forwarders, and non-vessel operating common carriers (NVOCCs).⁴²

The PNW is losing markets due to not getting to markets they need to go to. Peas and lentils go to the same ports, but they cannot get to without high prices to South America, India, Mediterranean, losing market this year. These countries are conducting business with other markets because they have cheaper freights.⁴³

Detention/Demurrage

The communication between the terminal and the ocean carrier is abysmal and becomes costly when they cannot align. It perpetuates detention if dates slide or demurrage if dates change after the return.⁴⁴

Situations like this create detention, cause us to pay storage to the trucker for holding on to the container, additional days in chassis fees that could rack up in the thousands, and delay shipments to our customers.⁴⁵

Carriers will look at the congestion at a port and determine if they will skip the port or not. There have been instances when ships cancel while they are on the way to the port.⁴⁶

Examples:

Shippers are still having a huge problem with demurrage on dock charges. The terminal is open for receiving, and it does not match the carrier open for receiving and they charge shippers. Charleston is open for 7 days, but not honoring it. They are no longer sending updated bookings because they do not want to have proof to dispute the charges.⁴⁷

Recently, a reefer did not run when plugged into a genset. The trucker tried to plug it in at another location. The trucker returned it to the terminal to get a new reefer container - which they received. The carrier charged the trucker for detention because they said that nothing was wrong with the first container. They tried to explain for several days, finally escalating to the sales dept and asking for a special favor to waive this charge. This ordeal took up time and money.⁴⁸

Terminal Appointments

Appointment issues waste so many costs and time for shippers and importers. These costs come back to the shipper and importer for dry runs, lack of chassis, and wait time. In addition, the lack of appointments causes missed vessels, resulting in additional billing from the carrier for detention/demurrage. Imports are unavailable for days, and when it is available, there are no appointments.⁴⁹

The containers come off the vessel and are not available when a container is moved to an accessible area and becomes available but is not accessible to make an

appointment because the Steamship Line wants to control direct pay to them for demurrage before releasing even though in these scenarios the container was never available. This slows down the process and increases the dwell time of containers which is what the terminal and Steamship Line say they want to reduce, but their policies are directly increasing the dwell time because nobody can retrieve the container, and the trucker must contact them to release it.⁵⁰

Examples:

In the Pacific Northwest (PNW), volumes are down, congestion is worse, wait times are 2-6 hours, empties are not available, and many terminals close on Fridays. Equipment is not updated, self-imposed rules steamships want self-billing, the marine traffic is not on the forecasted terminal, and there is no estimated date or time on the website. Customers are told that the vessel will arrive at one place, and then the vessel goes somewhere else. In Seattle, there is less cargo moving in and out of the port, yet the wait times are greater than ever. Less sailing and more congestion are due to the lack of available equipment that works. Most of the equipment violates safety protocols and has not been repaired. Therefore, there is not the same thru put or labor to run it. During the COVID-19 pandemic, 400 chassis were red-tagged for not maintaining the equipment leaving them unavailable for use and slowing down productivity. Also, due to a lack of information, many do not get notified about terminal availability until the middle of the day and it is much more challenging to get same-day appointments with a crew. These rigid appointment times affect shippers' schedules, labor, and costs.⁵¹

Short return windows, last min adjustments to ERD/cutoffs, and congestion often result in lost appointments. Few appointments cause an outbound plan to become backed up, and frequently they cannot reschedule new appointments. This directly leads to minimum quantity commitment (MQC) issues.⁵²

Most truckers would have all their drivers dispatched on Friday for the following Monday. These nine reefers were not available and did not show available until Monday, 8/29 with only two free days. This makes for a fire drill on Tuesday to get nine out that was unavailable the previous week. We had additional reefers today that suddenly were available this morning and unavailable yesterday and showed the last free day of tomorrow. It is like the terminal purposely updates availability at the last minute while the terminal is closed. Therefore, it is not two free days but one day and a certain number of hours, costing companies money and creating dispatch fire drills regularly.⁵³

Chassis

There should be visible chassis availability across the country – national and holistic. Ocean carriers work with intermodal equipment providers (IEPs) and respective chassis pool managers to ensure sufficient U.S. Department of Transportation road-worthy supply and efficient pick-up locations in all loading areas of the United States to meet peak shipping demand periods; further: Ocean carriers should not designate chassis provider for container yards (CYs) bookings. Shippers and their truckers should be

allowed to decide where to pick up chassis. When no good order chassis are available, the chassis provider shall perform chassis repair within a reasonable time frame for roadability / minor repairs, and, that shipper choice in all key markets for merchant haulage moves and support the work of the Federal Maritime Commission (FMC's) supply chain innovation teams both are supported.⁵⁴

Supply Chain Inland Rail Ramps

There is uncertainty on rail appointment system capacity against booking demand, where available, and service limitations and embargoes – specific, clear, and broadly disseminated. Rail appointment systems should be in alignment with specific ocean carrier booking quantity and vessel cutoffs for the calendar day/week; noting that results in missed intermodal cutoffs since containers cannot be returned within the CRW; noting that truckers cannot rail bill container(s) to get an appointment until container(s) are loaded and the trucker is ready to head to the ramp; and noting further that failure to get same day appointment after loading results in additional and unplanned member costs including holds on trucker yards, unplanned container storage, extra trucking costs, and chassis and container usage costs (per diem).

Rail line haul performance between the inland ramp and port of loading – no public visibility like airline data on flight on-time performance for trains to ports and marine terminals to understand reasonableness range. Ocean carriers and their designated international intermodal rail carriers maintain the integrity of containers moving together from the interior ramp of receipt to the port of loading to reduce splits and rolls to ensure that all containers make the interior intermodal cutoff and load their intended booked vessel with container seals intact.⁵⁵

Examples:

This morning one carrier canceled several bookings because they think the cargo cut is today and the bookings went unused; however, they don't realize that the container yard's cargo cut is not until next week. This happens so often at rail ramps.⁵⁶

Ports

Right now, there are backups in Vancouver that are causing delays of vessels calling the US, and even carrier decisions to skip either US ports or the base ports we regularly ship to. Carriers are profiting from the chaos and have no incentive to fix any of this.⁵⁷

What Information Should be Shared that Would Improve This Emergency

Situation:

This section will explain what information carriers and terminals should share that would alleviate this crisis. Carrier and terminal information are necessary to address terminal congestion. Requiring a uniform process for everyone to follow would benefit shippers and improve efficiency.

Carrier Should Extend Free-Time

Congestion is causing shippers to lose free time due to inaccessible shipments accumulating even more inefficiency. Here is another example of containers we have been trying to get appointments for two days. The terminal manager is not sure what T-18 has set as an appointment volume. The terminal is saying they do not extend the last free day for no appointment availability in E-modal. This missed communication adds more dwell time, hours, manual labor, and costs.⁵⁸

The free time clock should be stopped when:

- Shipment is on hold until the issue is resolved – shippers wait all day for the terminal and the carrier to work through an issue and lose a day of free time or we have lost the day of free time due to the hold and demurrage accumulates. Now they must pay to release even though they did all they could to get this shipment off hold.
- No equipment (chassis) available to pull out container load⁵⁹

Accurate/Timely Schedules

Accurate, timely equipment/chassis availability – including both volume of equipment and location is necessary to decrease congestion and increase efficiency. The Georgia Port Authority and South Carolina Ports have locked estimated time of departure (ETDs) and turn-in windows. Container receiving cutoff dates should be required nationally. This is also needed at inland rail ramps. Carriers need to provide shipping schedules and update these schedules regularly. The industry has many ideas regarding providing shipping schedules with suggestions ranging from one week to three months. Carriers and terminals need accurate and timely vessel schedule updates at transshipment ports, including better visibility of the cargo location and position in the loading line so shippers can provide a more accurate ETA for their customers.⁶⁰

Carriers should not require documentation cutoffs before the time shippers can pull a container. Once a vessel opens requires it to stay open for longer than 24 hours.⁶¹

To reduce company costs, the terminals should operate more fluidly and with some predictability. For example, if a vessel is due into a terminal and has left the last foreign port before heading to Seattle, then it should be visible in the estimated receiving dates screen for the terminal. Fire drills and bad information from Terminals and Steamship Lines make it very problematic to schedule drivers and the required warehouse appointments to offload the cargo. In the past, taking out a container and delivering it to a warehouse for live unload would be completed on the same day. Now, coordinating taking out containers with the warehouse to have the needed labor on hand has become a monumental problem driven by random and irregular vessel schedules. On the export side, there are equipment availability problems, poor quality, and constantly moving to receive dates that are not coordinated well with the Steamship Line and Terminals. Often, multiple carriers on the same vessel have three different receiving dates for their exports. Fairness in free time is essential or fines should be levied on the terminals and steamship lines.⁶²

For carriers, it should be mandatory to send an arrival notice to the importer of record and/or the notifying party a minimum of 5 days before arrival. If a carrier intends to pass through a new applicable surcharge, they must send an announcement to their customers on the day of filing or at the beginning of the 30-day window. Customers should receive updated confirmations from carriers when information changes regarding the dates. Terminals must track and publish real-time turn times inside the terminal and outside of the terminal. Also, terminals should monitor the points along the outside queue.⁶³

More complete and timely information will lower company costs by reducing the amount of time they take to verify that the information is accurate. Currently, much of their time is spent reaching out to the carrier and asking for complete information on booking changes, confirming that the information is accurate with terminal websites, and disputing invoices that do not consider the correct information or provide proof that the carrier notified them of the changes promptly.⁶⁴

Set ERD Dates

Once the ERD and LRD are set and empties are picked up for export loading, the lines should not be able to change the dates. If carriers do change the dates, they should not be allowed to invoice for detention/demurrage. Also, if the dates change for reefer cargo that causes shippers to hold loaded reefers for a new date. The lines should be responsible for chassis and genset charges. When picking up an empty reefer, shippers need to easily be able to invoice the lines for a dead run and any waiting time trying to get it going. ERD dates should be accurate, and terminals and carriers should announce advanced ERD/cutoff dates ahead of time.⁶⁵

There needs to be one official ERD/cutoff date that is coordinated between the shipping lines and the ports. Shipping lines will change their ERD dates suddenly and not update the port. When shippers deliver by the port's information, the shipping lines dispute this claim. The next time when shippers go by the shipping line's information, the shipping lines had not updated the port, so the port stops the container truck.⁶⁶

Timely, accurate alerts to include the ERD/LRD window with at least 48-72 hours between these 2 dates could be a potential regulation. If a carrier announces an ERD/LRD on the same day, every trucker in the area is heading to the port at the time of announcement to ensure the per diem clock stops as well as make cut-off. There is not enough time to react when vessel schedules get updated last minute. A terminal updating that the ERD is tomorrow, and the cutoff is in 2-3 days, that is not enough time. The industry needs at least 3-4 days.⁶⁷

The terminal website, emails from carriers, and carrier websites should have matching information on locations and manners. An accurate, centralized system that communicates changes to ERDs and vessel cuts is vital for company efficiency and reducing costs.⁶⁸

Booking/Appointments

Seeing the booking status – including PierPass status, CTF status, late gate status, container number, container type, container in-gate date, and seal number – is important to allow shippers to be productive while they are at the terminals. Information necessary to share includes vessel gate late availability (date/time/location), empty return acceptance, return appointment at the time of pickup- import/load picked up, and advise appointment for empty return- export, advise appointment for load return. This would alleviate congestion and cut down on the potential for detention/demurrage accrual.⁶⁹

If truckers billed their congestion and wait time to the terminals instead of back to the exporters/importers, the terminals would increase productivity and reduce congestion.⁷⁰

When shippers' import shipments have been moved to a closed area, it is unavailable, and they are not able to secure an appointment in time to avoid additional charges.⁷¹

Complete booking information needs to be given when a new booking is confirmed and when a booking is updated.⁷²

Matching Information

Often carriers and terminals have conflicting information that ultimately hurts the shipper the most. Most of the time, carriers are requesting container numbers and shipping information on vessels and bookings that are not even open for receiving at the terminal. Accurate gate hours, gate camera, and terminal contact information (email, phone number, name) should be the same between terminals and carriers. This information should be made available at least two working days before the event date and not change after posting on the terminal/port website.⁷³

For example, if the vessel demurrage first receiving date is 8/30 at 8 AM (Tuesday), then this information should be made available on the terminal website no later than 8/26 at 8 AM (Friday before), and it should not be advanced or delayed once the information is posted even if vessel berth date may change.⁷⁴

Equipment Availability

Sharing equipment availability at each terminal allows shippers to send truckers to yards that have the equipment or request an electronic delivery order (EDO) to a yard that has availability.⁷⁵

Reliable, up-to-date information regarding equipment availability would increase efficiency and reduce congestion. Terminals and carriers should have the same information regarding what carrier the container belongs to. All terminals (on dock/off dock) should be required to publish real-time equipment (full and empty) availability

including the type and number of empties. The carrier and terminal websites should have the information available.⁷⁶

Accountability

The carrier and/or terminal should be responsible to advise available appointments for the day and advising the new appointment openings if there are any cancellations. Reliable information is paramount for the supply chain to react and ship with minimal extra costs. Accountability offers an incentive for carriers and terminals to provide accurate information. A trucker is responsible when the ERD changes and the load is stored in a yard on a chassis that both cost money.⁷⁷

The steamship line should be responsible because it is their asset and system that is causing the added costs and they should pay for those extra charges.⁷⁸

Ocean carriers need to take responsibility for all kinds of errors and policies made by their terminals.⁷⁹

Detention/Demurrage

The first receiving date should be demurrage-free even if this date is carrier imposed, the information should be posted on the terminal website. The shipper and trucker should not be the responsible party for coordinating between the carrier and the terminal's differing information and are then forced to pay for demurrage charges.⁸⁰

Demurrage invoices need to state more information and break down the costs within a certain time frame. Some members have suggested 30 days maximum after the occurrence. Demurrage is billed to the shipper and importer after they pay for terminal charges and carrier charges of tariff demurrage increasing costs. For disputes, the carrier should acknowledge the dispute. If there is no resolution within 30 days, the invoices should be dismissed. Carriers intentionally prolong disputes so shippers will give up and pay. All detention and demurrage should be directly invoiced to the respective shipper and importer.⁸¹

Updating and Implementing Technology

Carriers should be required to have real-time information regarding when off-dock yards are used, the off-dock facility should have real-time information that matches the carrier. When the rail yard sets the ERD, LRD the carrier should have this real-time information. Real-time information on carrier websites is vital for increased productivity and reduced congestion. Terminals should have updated and working gate cameras. If terminals and carriers used technology more often to share their information, shippers would have higher levels of efficiency.⁸²

Other/Miscellaneous

The carriers should encourage empty returns or empty repositioning to inland depots where containers can be used for export goods.⁸³

Other information to include is the position of where containers are buried, a map of the terminal, and each lot of maps with a caption of what the lot is for (ex. Export staging area, import staging area, rail staging area, etc.), and where the container is in that lot. Reports of a container being available for diversion (via truck), the cost of the number of lifts required to get the container picked up, and how long it would take to get connected to the rail should be shared.⁸⁴

To increase efficiency, shippers need the ability to plan capacity. The carrier should be required to load a minimum amount of export loads. Some members would like to see a statute of limitations on current regulations to reduce costs. Extra costs like chassis and storage are up 30-50-100% depending on the market.⁸⁵

Neither the carrier nor labor should be allowed to stop the terminals from instituting the use of the installation of programs or equipment that improve productivity. The FMC should enforce this rule. If a terminal wants better technology, it should be allowed to use that technology so terminals can operate at the most efficient levels possible. Service levels should be maintained even when there is a training of new labor.⁸⁶

Truckers and transloaders swap containers. They pull under one booking and return on another. Carriers seem to be unaware of what has been delivered to their terminals against the bookings. Even when shippers give carriers the correct container numbers on the bill of lading instructions, carriers seem to refuse to take the time to check them against their terminal and instead roll the booking for a supposed lack of containers. When carriers and terminals do not monitor or standardize their information, it causes chaos for forwarders, truckers, and exporters.⁸⁷

HOW SHOULD INFORMATION BE SHARED?

In this section, we will offer suggestions and ideas from those in the industry on the best methods to share information.

Terminal Website

The fastest way to share information would be through the terminal site since all exporters are most likely checking the site first thing in the morning to try and plan their loads for the day based on what vessel is open.⁸⁸

Website posting is important so shippers and motor carriers can monitor changes.⁸⁹

One centralized place is preferred. There are too many emails received daily and checking each carrier's site is too cumbersome. Matching booking confirmations and information on terminal websites are vital.⁹⁰

NVOCCs should have more leverage against the shipping lines.⁹¹

The website should show and send out the booking confirmation every time the vessel slips revised confirmations.⁹²

Email

Shippers should receive e-mails with updated Cut offs and ERDs if those have changed from the original dates provided on the booking. Email is the best form of notification. The ideal system would be a notification sent via email and then a website where shippers can verify that information. Note that the information cannot be on a website or portal only because shippers must check the website every 5 minutes to see if anything has changed. Email notifications within a reasonable amount of time when changes are made would allow for further productivity.⁹³

Push email notifications per booking/vessel and the ability to exchange data digitally are critical to achieving the efficiency needed.⁹⁴

Customer Friendly Portal

Sharing information electronically through a customer-friendly portal helps to centralize information. Information should be automatically distributed if requested. For example, for auto distribution, requests from the Terminal/Carrier for equipment availability should be announced every day at a certain time.⁹⁵

Email updates are not enough, since shippers are receiving too many emails and updates, the port and the carriers are responsible to push the system electronic data interchange (EDI) updates or providing the solutions for application programming interface (API) connections since the shipper will be able to connect the data updates.⁹⁶

The Universal EDI or API must be available and should be from the carriers' huge profit. Shippers are willing to connect it when it is available. It would be ideal to keep a general, historical record that is accessible to all approved parties including ERD and Cut Date information as well as date stamps of when notifications were sent to shippers/freight forwarders of when carriers or terminals changed the cargo dates. This will allow stakeholders to verify detention and demurrage invoices.⁹⁷

Uniform Sharing Process

The information needs to be shared, accurate, and timely. Carriers need to communicate with the terminals. An enforcement deadline would incentivize carriers

and terminals to share this information more readily. The FMC needs to be serious, forceful, and act with gradual penalties. It is necessary to require information in a timely way to shippers and forwarders ahead of time to manage their operations.⁹⁸

Common data and agreed standards and definitions should be shared across the system that integrates with the range of proprietary systems and technology shippers, government, ports, rails, trucks, CYs, IEPs, and other system suppliers and intermediaries are using today. Vessel level visibility needs to manage changes to common data.⁹⁹

CONCLUSION

The levels of congestion have caused an emergency situation in the supply chain. Congestion due to unreliable schedules, changing ERDs, and information gaps have hurt shippers and their position in the global market. The FMC should pass an emergency order to alleviate this crisis by having carriers and terminals share accurate and matching information. This information needs to be shared electronically in real-time. By implementing these changes, the FMC would reduce congestion, positively impacting the country's international supply system.

Respectfully Submitted,



Peter Friedmann, Executive Director
ExecutiveDirector@AgTrans.org

Agriculture Transportation Coalition
www.AgTrans.org