

February 21, 2017

PUBLIC DOCUMENT

VIA FEDEX DELIVERY AND EMAIL TO SECRETARY@FMC.GOV

Ms. Rachel E. Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, DC 20573-0001

Re: **Petition of the Coalition for Fair Port Practices for Rulemaking – Petition No. P4-16**

Dear Assistant Secretary Dickon:

The Auto Care Association appreciates the opportunity to comment on the Dec. 28, 2016, *Federal Register* Notice concerning a petition for rulemaking from the Coalition for Fair Port Practices.¹ We fully support the policy statement requested by the coalition which would help bring about more reasonable demurrage and detention practices for cargo moving through our nation's seaports. We urge the Federal Maritime Commission (FMC) to begin a formal rulemaking on this matter as soon as possible.

The Auto Care Association

The Auto Care Association, a Bethesda, Md.-based trade association, has nearly 3,000 member companies and affiliates that manufacture, distribute and sell motor vehicle parts, accessories, tools, equipment, materials, supplies and services. Auto Care Association member companies operate or otherwise represent more than 150,000 manufacturing facilities, repair shops, parts stores and distribution outlets. The motor vehicle aftermarket is a significant sector of the U.S. economy, employing 4.5 million people. This industry encompasses all products and services purchased for light, medium and heavy duty vehicles after the original sale including replacement parts, accessories, lubricants, appearance products, tires and collision repairs, as well as the tools and equipment necessary to make the repairs.

The Auto Care Industry

The auto care industry, also commonly referred to as the automotive aftermarket, is the part of the automotive industry that deals with the manufacture, remanufacture, distribution, wholesaling and retailing of all vehicle replacement parts, accessories, tools, equipment, chemicals and services. The industry includes parts, accessories and services for light vehicles and medium and heavy-duty trucks.

¹ *Petition of the Coalition for Fair Port Practices for Rulemaking; Notice of Filing and Request for Comments*, 81 Fed. Reg. 95612 (Dec. 28, 2016).

Any product or service that a vehicle may need after the original equipment (OE) manufacturer assembles it is an auto care industry product or service.

The 533,000 businesses in the U.S. auto care industry form a coast-to-coast network of independent manufacturers, distributors, retailers and repair shops. The industry employs 4.5 million people and reported sales of more than \$356 billion in 2015. This integrated grid of companies and organizations is dedicated to providing the quality parts, products and vehicle service and repair for all 272 million cars and trucks on U.S. roads today.

Detention/Demurrage Issues

Auto Care Association members have reported repeated incidents of disruption in port operations and severe congestion at container terminals in U.S. ports on both the West Coast and East Coast that have prevented our members from picking up cargo or returning empty containers.

Our members reported that the 2014 and 2015 West Coast port labor negotiation was the most disruptive event in the past five years. Tightly-integrated supply chains across the economy were interrupted, causing significant and widespread delays in the flow of imports and exports, all of which had severe negative economic consequences. Many firms had to expend additional resources to find solutions to the disruption, including modifying supply chains, diverting shipments to other ports, or using alternate modes of transportation.

In August 2016, the Hanjin Shipping Company filed for bankruptcy protection, leaving \$14 billion in cargo stranded at sea and causing widespread disruptions in the global supply chain. Dozens of ships were denied access to ports around the world due to the uncertainty of who will pay for docking fees, container storage and unloading bills.

Regardless of the reasons behind port delays, shippers and truckers are often charged demurrage and detention penalties when circumstances arise beyond their control. If the terminal is closed during normal working hours, or if a container is unavailable for pickup during the free time period due to congestion or other disruption at the port, carriers and terminals should not assess demurrage. The same is true for detention charges when attempts to return an empty container are frustrated.

During the Hanjin shipping crisis, detention and demurrage fees were imposed even though the terminal operators' refusal to take Hanjin containers were the reason for the delays. These additional costs associated with port congestion and delays ultimately lead to higher costs downstream to the consumer.

Frequent port disruptions during the last several years have caused some shippers to experience demurrage and/or detention charges that totaled between five and six figures. The Coalition for Fair Port Practices has proposed a policy statement that would help to stop this unfair practice. The FMC has the authority to ensure that demurrage and detention practices are fair and reasonable, and it needs to act to address this problem.

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We appreciate the opportunity to comment and look forward to continuing this dialogue with the FMC. As the next step, we urge you to grant the petition and open a rulemaking on the coalition's policy statement to ensure that U.S. imports and exports are not burdened with unfair demurrage and detention charges.

Please contact Aaron Lowe, senior vice president, regulatory and government Affairs, at 301-654-6664 or via email at aaron.lowe@autocare.org if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Harvey", is written over a horizontal line. The signature is stylized and cursive.

Bill Harvey
President and CEO
Auto Care Association