

Rachel Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol St. NW, Room 1046
Washington, DC 20573

Request to Appear
Public Hearing – Petition No. P4 – 16

Dear Ms. Dickon,

This is a request to appear and testify on behalf of the Agriculture Transportation Coalition before the Commission at its hearing on Petition No. P4 -16.

About the AgTC:

Since its inception in 1987, the Agriculture Transportation Coalition has been guided by this measure:

“There is nothing that we produce in this country in agriculture and forest products, that cannot be sourced somewhere else in the world. We can grow the best in the world, but if we can’t deliver affordably and dependably, the customer will go somewhere else... and may never come back”.

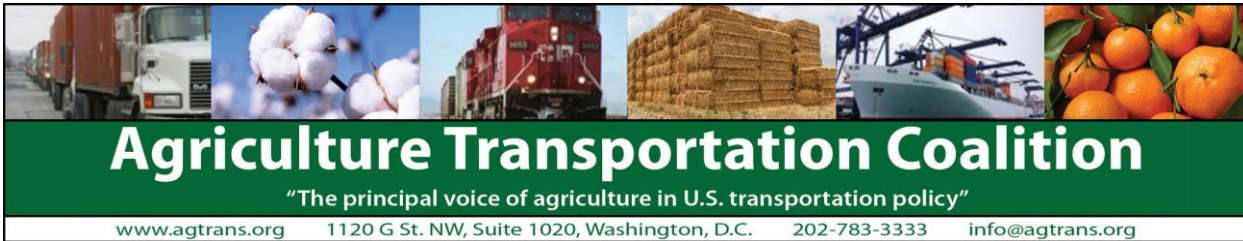
The Agriculture Transportation Coalition (AgTC) has been identified by a leading transportation and logistics publication as **"the principal voice of agricultural exporters in US transportation policy."** The AgTC's membership includes companies that represent virtually all agriculture products and many forest products exported from the United States. These products are grown, raised, processed, packaged and shipped from all regions of the U.S., to all markets worldwide, where they typically face competition from similar products sourced elsewhere.

Transportation constitutes a substantial component of the total landed cost of U.S. agriculture and forest products, and thus plays a critical role in determining the competitiveness of our U.S. products in foreign and domestic markets. US agriculture and forest products exporters depend on a network of properly functioning roads, bridges, rail, marine terminals, and particularly ports, in order to export their products.

Past Efforts to Mitigate Unfair Detention and Demurrage Per Diem Charges

Exporter, freight forwarder, and trucking members of the AgTC, together with AgTC staff, were the first to bring the matter of per diem charges to the attention of Commissioners, in informal meetings in 2015, during and immediately following the West Coast port slowdowns of that period. We met with every Commissioner, individually, informing them of these charges, which collectively amounted to tens of millions of dollars, in some instances individual truckers/exporters have been assessed millions of dollars of per diem penalty charges.

The AgTC, building on excellent relations with many ocean carrier officials, proceeded to engage directly with the individual ocean carriers which had issued these charges on behalf of our members. In many cases we engaged with the President for North America of the lines, and certainly with regional officers, with whom we



have, over the years, built mutually beneficial relationships. In many instances, these carrier officials recognized the inequity of imposing penalties upon customers for violation of free time limits during periods when timely return of containers to terminals was physically impossible. These carriers have waived many of the penalties. Others have displayed less interest in engaging with the export shippers, and less willingness to advocate to global headquarters for equitable relief and resolution of these assessments.

Nearly three years later, the AgTC continues, even today, to press remaining carriers to waive outstanding inappropriate and unfair penalty assessments.

An illustrative example occurred in the Pacific Northwest: an exporter in Oregon was set to send containers to a terminal in Puget Sound, to meet the cargo-cut requirement of the ocean carrier. Recognizing the futility of attempting access to the shuttered or congested terminal, the carrier's own representative advised the exporter to refrain from sending containers up to the Port. The carrier's representative monitored the terminals, and a week later advised the exporter that the wait times were now down, so he could send the trucks/containers up. It was a 6 day violation of the free-time in the tariff. Imagine the outrage when that carrier imposed a 6 day penalty, at \$250/day for free-time violation! The local carrier representative was similarly perplexed. Only after rigorous advocacy for this member, by us and by the carrier's own local representative, was the penalty waived. But other exporters and truckers were not so fortunate, and carriers have the leverage of threatened and actual 'lock-out' of the shipper or trucker from the terminal.

In 2015 and 2016 AgTC engaged with FMC staff at the Consumer Affairs and Dispute Resolution Services bureau, in an effort to gain effective FMC intervention, leading to resolution. FMC attorneys have worked with several of our members, although with limited results.

Subsequently, the AgTC has joined with other shipper interests, in the Coalition for Fair Port Practices and otherwise, to advocate for a reasonable policies to prevent imposition of costly, disruptive and unfair penalties, when none are warranted.

For these reasons, I request to testify at the upcoming hearing.

Sincerely,

A handwritten signature in black ink, appearing to be "Peter Friedmann", with a long horizontal line extending to the right.

Peter Friedmann, Executive Director
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"The principal voice of U.S. agriculture exporters in transportation policy" – Journal of Commerce

"The leaders on transportation issues...the Agriculture Transportation Coalition, which includes agriculture exporters and importers and freight forwarders as well as agriculture trade associations and state departments of agriculture" –National Journal