



February 27, 2017

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 Almond Alliance of California (the Alliance) is pleased to respond to the Federal Maritime Commission (FMC) *Federal Register* notice published on December 28, 2016 concerning a petition for rulemaking from the Coalition for Fair Port Practices. The Alliance fully supports 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 FMC to begin a formal rulemaking on this matter as soon as possible.

The Alliance represents over 80% of the California Almond industry based on volume and is engaged in issues pertinent to the ability of our members to operate in an efficient and economically viable manner. Included in these efforts are advocating on regulatory and legislative issues such as transportation. The almond industry exports 70% of the crop to over 90 countries on an annual basis. Almond exports were valued at \$5.14 billion in 2015. The majority of shipments are shipped through the west coast which has been problematic during times of port negotiations, when there were strikes or slowdowns. Exporters should not be held responsible for demurrages charges and late fees due to these circumstances, which are simply out of the almond industry's control.

The almond industry has experienced repeated incidents of severe congestion at container terminals at U.S. ports on the west coast, which have prevented our exporters from shipping out cargo. During the most recent slowdown in 2014-2015, we had several industry members that dropped off cargo at the port on time and were charged for the cargo to be stored at the port over the shipping lines designated free time due to a port issue such as the slowdown. To further this, exporters were not able to pick up empties on time resulting in lost bookings and delayed shipments.

Whether those incidents involved weather, labor contract negotiations, the arrival of very large ships or other disruptions, port delays are beyond the almond industry's control. All too frequently shippers and truckers are being charged demurrage and detention penalties for containers stored at the port, beyond the shipping lines designated free time, waiting to be loaded onto a ship. This is not the exporters fault. 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. These are real costs that hurt American businesses and American competitiveness.

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.

The FMC has taken important steps to examine port congestion issues challenging carriers, shippers, terminals and intermediaries. As the next step, the Alliance urges you to grant the petition and open a rulemaking on the Coalition's policy statement to ensure that US imports and exports are not burdened with unfair demurrage and detention charges. Thank you for considering our views.

Respectfully,

A handwritten signature in black ink that reads "Kelly Covello". The signature is written in a cursive, flowing style.

Kelly Covello
President