

S E R V E D

NOVEMBER 16, 2017

FEDERAL MARITIME COMMISSION

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PETITION NO. P4-16

PETITION OF THE COALITION FOR FAIR PORT PRACTICES FOR RULEMAKING

NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS

AGENCY: Federal Maritime Commission

ACTION: Notice of Hearing and Request for Comments.

SUMMARY: The Commission has determined to hold hearings on January 16 and 17, 2018, to receive oral testimony concerning the Petition of the Coalition for Fair Port Practices for Rulemaking.

DATES: Request for appearance and comments are due by December 8, 2017

ADDRESSES: All requests to appear and comments should be addressed to:

Rachel Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol St. NW, Room 1046
Washington, DC 20573-0001
Email: secretary@fmc.gov

SUPPLEMENTAL INFORMATION:

On December 7, 2016 the Coalition for Fair Port Practices petitioned the Federal Maritime Commission (Commission) pursuant to 46 C.F.R. 502.51 of the Commission's Rules of Practice and Procedure to initiate a rulemaking proceeding. Petitioner states the purpose of the rulemaking is for the Commission to adopt "a rule that will interpret the Shipping Act of 1984 . . . specifically 46 U.S.C. section 41102(c)". The petition and comments received are posted on the Commission's website at <https://www.fmc.gov/p4-16/>.

The Commission will hold public hearings to explore further the issues surrounding P4-16, the Petition of the Coalition for Fair Port Practices and the related comments filed in this proceeding. The hearings will take place on January 16 and 17, 2018, at 10:00 AM in the Commission's Main Hearing Room, 800 North Capitol Street, NW, Washington, DC. The hearing will be open for public observation.

Any person wishing to participate and speak at the hearing must send a request to appear as a participant witness no later than December 8, 2017, and include the name, street address, email address, telephone number, and the name of your company or employer, if any, together with a summary of the intended testimony, not to exceed three pages. The Commission will extend invitations to selected interested witnesses to participate in the hearing and may invite others to participate.

Copies of all written submissions will be posted to the Commission's website and will be available in the Commission's Office of the Secretary.

The petition arose out of experiences of coalition members – importers, exporters, drayage providers, freight forwarders, customs brokers, and third-party logistics providers – with port congestion that ultimately led to vessel ocean common carrier (VOCC) and marine terminal operator (MTO) assessments of detention, demurrage, and per diem charges. The petition lists events over the preceding five years that led to port congestion including Hurricane Sandy (2012), harsh winter (2013-2014), west coast labor agreement (2014-2015), cargo diversions from west coast to east coast (2015), winter storms (2014-2015), port hiring practices protests – New York/New Jersey (June 2016), and the Hanjin bankruptcy (Fall 2016).

On December 20, 2016, the Commission published a notice in the Federal Register asking interested persons to submit views or arguments in reply to the Petition. The Commission received 115 responses, including comments from Members of Congress, trade and shipper associations representing various interests, individual importers, exporters, customs brokers, freight forwarders, logistics companies, trucking and drayage companies, VOCCs, port authorities, and MTOs.

The many responses to the Petition illustrate the complexity of issues surrounding ocean container shipping and marine terminal operations.

Given the importance of this issue, its complexity, and the public interest indicated by the number and quality of comments submitted in response to the Petition, the Commission will hold public hearings to further explore the issues raised by the Petition and address specific questions. Commentary and answers to these questions will be helpful to the Commission as it determines its next steps with regard to Petition P4-16.

By the Commission.

Rachel E. Dickon
Assistant Secretary