December 13, 2022

VIA ELECTRONIC SUBMISSION
The Honorable Daniel B. Maffei
Chairman
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Re: Docket No. FMC-2022-0066, Demurrage and Detention Billing Requirements
Comments to Notice of Proposed Rulemaking

Dear Chairman Maffei:

The National Association of Waterfront Employers ("NAWE") hereby submits its comments to the Federal Maritime Commission's ("FMC" or the "Commission") Notice of Proposed Rulemaking ("NPRM") regarding demurrage and detention billing requirements (Docket No. FMC-2022-0066). For the reasons set forth below, NAWE opposes the inclusion of marine terminal operators ("MTOs") in certain aspects of the proposed rule, and requests further revisions and industry engagement by the Commission prior to the issuance of a final rule.

Statement of Interest

NAWE is a non-profit trade association whose member companies are privately-owned stevedores, MTOs, and other U.S. waterfront employers. NAWE's member companies engage in business at major U.S. ports on the Atlantic and Pacific coasts, the Gulf of Mexico, the Great Lakes, and Puerto Rico. Accordingly, NAWE's members operate the critical connection between global commerce and our Nation's economy and are committed to keeping America's international trade and commerce flowing. As such, NAWE's members would be directly impacted by the issuance of a final rule on demurrage and detention billing practices.

Comments on the NPRM

1) **The FMC's proposed rule ignores the express Congressional intent when it passed the Ocean Shipping Reform Act of 2022, and exceeds the Commission's authority.**

As the FMC acknowledges in Section III of the NPRM's preamble, the Ocean Shipping Reform Act of 2022, Pub. L. No. 117-146, ("OSRA 2022") was signed into law "[a]fter the Commission issued the [Advanced Notice of Proposed Rulemaking ("ANPRM")] and received comments." 87 Fed. Reg. 63245 (Oct. 14, 2022). Notably, the preamble correctly summarizes the substantive impacts of OSRA 2022 on the FMC's present rulemaking efforts, providing, "OSRA 2022 prohibits **common carriers** from issuing an invoice for demurrage or detention charges unless the invoice includes specific information to show that the charges comply with part 545 of title 46, Code of Federal Regulations and applicable provisions and regulations." *Id.* at 62346 (citing Pub. L. No. 117-146 at § 7(a)(1) (codified at 46 U.S.C. § 41104(a)(15))) (emphasis added). The preamble further confirms, "OSRA 2022 then lists the minimum information that **common carriers** must include in a demurrage or detention invoice." *Id.* (citing Pub. L. No. 117-146 at § 7(a)(2) (codified at 46 U.S.C. § 41104(d)(2))) (emphasis added). Finally, the FMC acknowledges the limitation of its authority under OSRA 2022, stating, "OSRA 2022 also **authorizes the Commission** to revise the minimum information that **common carriers must include on demurrage or detention invoices** in future rulemakings." *Id.* (emphasis added).

While the preamble correctly reflects the Congressional intent and plain language of OSRA 2022, the FMC unfortunately ignores such language and intent in the proposed regulations. Instead, the proposed rule would impose OSRA 2022's substantive demurrage and detention invoicing requirements on MTOs and ocean carriers in the same manner under 46 CFR § 541.6. Moreover, the proposed rule would subject MTOs and ocean carriers to the same penalty under 46 CFR § 541.5 (i.e., eliminating any obligation of the billed party to pay the applicable invoice) for failing to include the required "invoice" information. In doing so, the FMC has erroneously dismissed the plain language of Section 7 of OSRA, which expressly limits the substantive invoicing requirements codified in 46 U.S.C. § 41104 to ocean carriers. The proposed rule is therefore at odds with the basic precepts of statutory interpretation. *E.g., Consumer Product Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102, 108 (1980) ("The starting point for interpreting a statute is the plain meaning of the statutory language and, absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive."); *Webb v. Hodel,* 878 F.2d 1252, 1255 (10th Cir. 1989) ("If the statute is unambiguous, the literal language of the statute controls.") (citing *Glenpool Util. Servs. Auth. v. Creek Co. Rural Water Dist. No. 2*, 861 F.2d 1211, 1214 (10th Cir.1988)); *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883) (While performing statutory interpretation, agencies must "give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed."); *Astoria Federal Savings & Loan Ass'n v. Solimino*, 501 U.S. 104, 112 (1991); *Sprietsma v. Mercury Marine*, 537 U.S. 51, 63 (2003) (The modern variant is of this principal is that statutes should be construed "so as to avoid rendering superfluous" any statutory language).

Even if the statute were ambiguous as to whether OSRA 2022's substantive invoicing requirements should apply to MTOs, the legislative history makes the Congressional intent clear. When OSRA 2022 was first introduced in the House as H.R. 4996, Congress proposed to make certain substantive demurrage and detention invoicing requirements under 46 U.S.C. § 41104 applicable to MTOs. *See* H.R. 4996, 117th Cong. (as introduced Aug. 8, 2021) at § 7(a) (Providing that the requirement to certify any demurrage or detention invoice is consistent with 46 CFR Part 535, the Commission's *Interpretive Rule on Demurrage and Detention Under the Shipping Act* (the "Interpretive Rule") and subsequent FMC regulations "shall apply to marine terminal operators, except that such prohibition shall not apply to terminal detention or demurrage charges by marine terminal operators if such charges are based on public port tariffs set under State law."); *see also id.* (providing that the failure of an MTO or ocean carrier to provide such certification "alongside any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.") (emphasis added). However, by the time H.R. 4996 passed the House, Congress had removed MTOs from the consequences of failing to provide such invoice certification. *See id.* (as passed by the House on Dec. 8, 2021) at § 10 (Providing that the "[f]ailure of a common carrier to include a certification under section 41102(e) alongside any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.").

The Senate generally followed the House with the introduction of S. 3508, imposing the substantive invoicing requirements only on ocean carriers. However, the initial Senate-introduced bill created some confusion, as it still included MTOs in certain resulting reporting requirements. *See* S. 3680, 1117th Cong. (as introduced Feb. 3, 2022) at § 6 (Directing the FMC to publish "(1) all findings by the Commission of false certifications by common carriers or marine terminal operators under section 41104(a)(15) of this title; and (2) all penalties imposed or assessed against common carriers or marine terminal operators, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier or marine terminal operator.") (emphasis added). However, by the time Congress passed OSRA 2022, the Senate had corrected this error to expressly removed MTOs from the Section 6 reporting requirements. *See* OSRA 2022 at § 6 (codified at 46 U.S.C. § 46106(d)) (directing the FMC to publish (1) all findings by the Commission of false detention and demurrage invoice information **by common carriers under section 41104(a)(15) of this title**; and (2) all penalties imposed or **assessed against common carriers**, as applicable, under sections 41107, 41108, and 41109, listed by each **common carrier**." (emphasis added).

The actions of Congress are unequivocal. Both the House and Senate expressly removed MTOs from the substantive demurrage and detention invoicing requirements of OSRA 2022. Congress ultimately recognized that MTOs are not in a position to provide the additional information on demurrage and detention "invoices" or corresponding certification that would be mandated by this rulemaking. Indeed, Congress recognized the minimal benefit, and significant

burden in imposing such requirements on MTOs. As articulated in NAWE's comments to the Commission's ANPRM, the ability to provide the additional information included in the NRPM may be impossible, or at a minimum extremely burdensome and costly, due to electronic billing system limitations (discussed in detail, *infra*, Section 2). In addition, some of the mandatory information required by the NPRM would require integration with MTO financial systems, which raises additional data security concerns. Congress further understood the impracticality of requiring this additional information from MTOs, as the underlying cause of the demurrage charge is often unknown until after the container is retrieved from the marine terminal.

Quite simply, the Commission does not have the discretion to impose these requirements and ignore the plain language and express Congressional intent to exclude MTOs from OSRA 2022's substantive invoicing requirements. *See Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837, 842-843 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.") (emphasis added). Accordingly, NAWE recommends that the Commission revise 46 CFR §§ 541.5-541.6 in its final rule, to remove MTOs and properly implement the clear language of 46 U.S.C. §§ 41104 and 46106(d), as amended by OSRA 2022.

2) Imposing OSRA 2022's substantive invoicing requirements creates a burdensome change in efficient business practices and negatively impacts MTOs' established legal rights.

In addition to imposing an obligation that is odds with OSRA 2022's plain language and Congressional intent, imposing a requirement that MTOs issue invoices containing all of the information mandated by OSRA 2022 would require a significant and costly changes to MTOs' existing business practices. As discussed in NAWE's comments to the Commission's ANPRM, there are only limited circumstances in which an "invoice" is sent by an MTO. Many MTOs, whether billing demurrage charges directly or indirectly as an agent of the ocean carrier, employ digital cargo retrieval platforms such as eModal or their own electronic payment portals. Information is provided to these digital platforms and portals via electronic data interchange ("EDI") based on information provided by the ocean carrier tariff and/or port tariff in the terminal operating system. The digital cargo retrieval platforms integrate demurrage charges, which are then paid by the cargo interest or its agent (typically the motor carrier) before the cargo is released from the terminal for delivery. This is the most efficient way to ensure that charges are paid promptly and cargo removed from the terminal in a timely fashion, consistent with the Interpretive Rule's incentive principle. Notably, this long-established practice has been mutually agreed upon by motor carriers, ocean carriers, and cargo facility operators (such as

MTOs and railroads) as evidenced by Uniform Intermodal Interchange and Facilities Access Agreement ("UIIA").

Contrary to this established and efficient practice, the invoice content regulations would require the MTO to identify the end date of free time and the specific dates for which demurrage is being charged. However, these dates cannot be determined until the container is removed from the marine terminal. Thus, application of the NPRM's invoice content requirements to MTOs would force them to choose between either: (a) releasing cargo without pre-payment of demurrage and trying to collect on subsequently issued invoices (which – beyond creating an arduous administrative burden – is generally at odds with the Commission's incentive principle underlying this rulemaking), or (b) potentially being forced to refund any demurrage collected prior to cargo release on the grounds that any demurrage charges paid with respect to such cargo were paid against an "invoice" that did not meet the invoice content requirements, which would added an unnecessary level of confusion and administrative burden.

Moreover, this proposed regulatory change has serious implications for MTO common law lien rights. MTOs have a common law lien on cargo in their possession for the payment of demurrage charges. *See, e.g., Cross Equip. Ltd. v. Hyundai Mer. Marine Am.,* 2000 U.S. App. LEXIS 40458 at *13-*14 (5th Cir. 2000). If MTOs are required to release cargo prior to the payment of demurrage charges because of the NPRM's invoice content requirements, they would be forced to waive this common law lien. Accordingly, even if the FMC had the authority to impose OSRA 2022's substantive invoicing requirements upon MTOs, it must first consider the tremendously negative impacts on established and efficient business practices agreed upon in the UIIA, as well as long-standing common law rights.

3) **If the FMC's proposed rule is applied to MTOs, the proposed sanction for MTO billing non-compliance should be consistent with the FMC's interpretive rule on unreasonable practices at 46 CFR §545.4—namely, the proposed penalty should not apply in the absence of ongoing or continuous non-compliance.**

NAWE also disputes that the FMC has authority to impose the NPRM's substantive invoicing requirements on MTO's through the Commission's general authority to regulate unjust and unreasonable practices under 46 U.S.C. § 41102(c). It is, of course, a long-standing legal principle of statutory construction that a more specific statutory provision controls over a more general provision. *E.g.,* Gen. Accountability Off., *Principles of Fed. Approps. Law* (4th ed., 2016) at Ch. 1.D.8. ("when harmonization does not resolve an issue, we turn to the second principle, which is that more specific enactments control over more general ones."). Moreover, when two statutes cannot be harmonized, the "later enactment supersedes an earlier one." *Id.* In this matter, the FMC's general 46 U.S.C. § 41102(c) authority can be harmonized with OSRA 2022 by simply omitting MTOs from the proposed rule's substantive demurrage and detention

billing requirements. However, if the Commission believes that the two statutes cannot be harmonized, then OSRA 2022 – as both the more specific statute dealing with the FMC's authority to impose restrictions on demurrage and detention invoices and the later-in-time enactment – controls over the FMC's more general, prior authority to regulate unreasonable practices. Either way, the result is the same – MTOs must be excluded from the requirements of 46 CFR §§ 541.5-541.6 in the FMC's final rule.

Moreover, even if the Commission chooses to press forward without a clear legal basis under its authority at 46 U.S.C. § 41102(c), it nonetheless must give credence to its existing interpretive rule on unreasonable and unjust practices at 46 CFR § 545.4. Under 46 CFR § 545.4(b), an impermissible "practice" must be something that occurs on a "normal, customary, and continuous basis." In contravention of this existing regulation, promulgated in accordance with the Administrative Procedure Act ("APA"), 46 CFR §§ 541.5-541.6 as proposed would penalize MTOs for any isolated, one-off invoice omission, and apply the penalty to the entire invoice, including as to charges that may not be implicated by the mistake at issue. In effect, this regulation would be an implicit repeal of the existing regulatory definition of "unjust and unreasonable practices" under 46 CFR § 545.4 as it relates to MTO demurrage charges, without an opportunity for public comment on such repeal, as required by the APA.

Accordingly, even if the numerous legal issues could be overcome, and the substantive invoicing requirements are to be applied to MTOs, the proposed penalty for missing information should apply only in the event that non-compliant invoicing practices are "occurring on a normal, customary, and continuous basis" consistent with the FMC's established regulatory standard for unjust and unreasonable practices reflected in 46 CFR § 545.4(b). As discussed above, and acknowledged in the NPRM's preamble, Congress enacted a non-payment penalty only on common carrier non-compliant invoices (see 46 USC § 41104(f)). Congress did not apply that penalty to MTOs, nor generally to unreasonable practices under 46 USC § 41102(c), and therefore the FMC should not do so in this rulemaking (and, indeed, cannot do so without proposing to amend 46 CFR § 545.4(b)). Even assuming that the FMC has discretion to regulate counter to the plain language and Congressional intent of OSRA 2022, the FMC should not advance a new or inconsistent interpretation on unreasonable practices without providing a reasoned explanation and opportunity for public comment, which has not been provided.

4) **Prohibiting MTOs from issuing demurrage invoices to any person or entity other than those that have contracted with the MTO for the storage of cargo is both unlawful and would negatively impact marine terminal operations.**

In addition to the foregoing issues, 46 CFR § 541.4, as proposed, also appears to unduly restrict the parties that may *pay* demurrage charges, by providing that an "invoice" may be issued only to the entity that "contracted with the billing party for the carriage or storage of goods and is

therefore responsible for the payment of any incurred demurrage or detention charge." The proposed rule could be read to restrict MTOs to billing demurrage only to ocean common carriers, with which they have terminal service agreements. As a preliminary issue, NAWE notes that this restrictive interpretation would be inconsistent with the Shipping Act (46 U.S.C. § 50501(f)), which provides that any published MTO schedule is "is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions." Therefore, the FMC must resolve this inconsistency before proceeding to a final rule, and clarify that MTOs can bill demurrage charges to any entity, provided it is consistent with the MTO schedule. Moreover, if MTOs were forced to bill demurrage only to ocean carriers (with whom the MTOs have terminal service agreements), it may remove the entire incentive of demurrage, which seeks to encourage the beneficial cargo owner ("BCO") or its agent to remove the container during free time.[1] If the BCO or its agent pays demurrage only indirectly through the ocean carrier (presumably with some delay for interim invoicing by the ocean carrier) then there may be no immediate incentive to remove the container, adding to dwell times.

However, far more concerning is the fact that this restriction is completely inconsistent with established, efficient demurrage billing and payment practices of many MTOs described above in Section 2 of these comments. In practice, demurrage is charged against a particular container, and tracked by container number, without consideration of the BCO's identity. MTOs have made significant financial investment into digital cargo retrieval and payment platforms, which integrate demurrage charges that are then paid by the BCO or its agent (typically the motor carrier) before the container is released from the terminal for delivery. The consignee and any "notify parties" on the bill of lading receive an arrival notice from the ocean carrier. The BCO/consignee, its agent, or the motor carrier – as agreed upon solely between such parties – may then log in to the digital cargo retrieval platforms and pay demurrage charges assessed against the container. A receipt is generated documenting the assessment and payment of the demurrage charge (which effectively serves as the "invoice") and allows the container to be released. This is the most efficient way to ensure that demurrage charges are paid promptly and cargo removed from the terminal in a timely fashion, consistent with the Interpretive Rule's incentive principle, and has been recognized across the transportation industry in the UIIA. It also reflects the fact that the MTO's software vendor has no information as to the BCO's identity.

Restricting the party to which the "invoice" may be issued (i.e., the party that can access the MTO's digital cargo retrieval or payment platforms) would appear to offer no benefit, while having significant negative consequences. First, it would create a substantial administrative and financial burden to update electronic systems to limit access only to the party that has

[1] For clarity, we note that some MTOs – particularly MTOs that may not collect demurrage on behalf of ocean carriers – currently charge demurrage to ocean carriers directly. That said, while the practice of charging ocean carriers for demurrage has been implemented at a limited number of marine terminals, mandating this practice on other MTOs is impractical and costly, as discussed herein.

"contracted with the billing party for the carriage or storage of goods and is therefore responsible for the payment of any incurred demurrage or detention charge." For example, this may require bifurcating demurrage payment from existing terminal appointment booking systems, and could require the BCO/shipper to pay in one system before the motor carrier books a container retrieval appointment in another system. The inevitable result is an increase in container dwell times and additional constraints on U.S. international trade. Accordingly, NAWE recommends that the Commission revisit and remove this concept in 46 CFR § 541.4, and instead support the existing demurrage charge payment and container retrieval practices that have been proven to facilitate cargo fluidity and accepted by transportation stakeholders under the UIIA.

5) The FMC's proposed rule is inconsistent with Executive Order 13579 (Regulation and Independent Regulatory Agencies) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Beyond the numerous substantive issues, the NPRM is procedurally defective. Section 1(a) of Executive Order ("EO") 13579 states that "[t]o the extent permitted by law, [independent agency regulatory] decisions should be made only after consideration of their costs and benefits (both quantitative and qualitative)." Here, the FMC failed to engage in any quantitative or qualitative assessment of the costs and benefits of its proposed rule. The NPRM provides no analysis on the anticipated impact of cargo fluidity at marine terminals. As indicated above, the proposed rule would require deviation from existing commercial practices, which have been developed at tremendous expense to ensure cargo fluidity at U.S. marine terminals and to properly incentivize BCOs to remove containers during free time. Indeed, there is a clear absence of discussion and data as to the anticipated impact on container dwell times in the NPRM, which is concerning given the tremendous efforts that MTOs, waterfront labor, the FMC, and the Administration have undertaken in recent years to reduce container dwell times.

Moreover, there is no discussion of the costs of the NPRM, including (a) the direct costs that MTOs and ocean carriers must absorb from technology enhancements and administrative costs to implement the proposed rule, or (b) the impact on demurrage and detention billings compared to the current system. There is also a potential security "cost" that may arise from requiring demurrage "invoices" to include the bill of lading number. Many MTOs utilize a system that requires the consignee or its motor carrier to provide a "pick-up number" to obtain release of an import container. The pick-up number is often a combination of the container number and either the full bill of lading number of a portion of the bill of lading number (e.g., the last four digits). The container number is readily accessible through various public means. If the FMC requires the bill of lading number to be part of the demurrage invoice presented by the MTO's system, anyone with the container number could obtain both pieces of information necessary to obtain a pick-up number, potentially increasing the incidence of theft at U.S. ports.

It would be extremely time-consuming, burdensome, and expensive for MTOs to rebuild their existing booking systems and practices to prevent the security threat that would be created by the addition of these data elements to the demurrage invoicing requirements. This burden and the security risks far outweigh the need for and benefit of these additional data elements. Accordingly, the NPRM should not be permitted to proceed to a final rule without a supplemental notice providing the requisite cost and benefit analysis, which must include this security concern, for public consideration.

In addition, section 1(c) of EO 13579 states that independent regulatory agencies should follow the central requirements of EO 13563, Section (2) through (5). In turn, Section 4 of EO 13563 states that "...each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public."[2] (emphasis added). Such approaches include "warnings, appropriate default rules, and disclosure requirements, including provision of information to the public about risks in a form that is clear and intelligible." The FMC does not adopt an approach that maintains flexibility and freedom of choice. Instead, the FMC has proposed a proscriptive approach that seeks to the limit the parties to which detention and demurrage may be charged, and the timelines in which such "invoices" may be issued. To ensure consistency with Section 4 of EO 13563, NAWE again recommends that the Commission revise 46 CFR § 541.4 to support the existing demurrage payment and container retrieval electronic systems that have been proven to facilitate cargo fluidity.

Moreover, as noted above, because MTO demurrage charges are generally "invoiced" through digital cargo retrieval systems (or a payment portal) at the time a container retrieval appoint is made, there generally is no delay in the imposition of such charges. Accordingly, as NAWE stated in its comments the Commission's ANPRM (and now reaffirms) we are not aware that the timeliness of MTO demurrage billing has been a concern. Accordingly, the imposition of timelines for MTO demurrage "invoices" is wholly unnecessary and is at odds with the flexibility precepts of Section 4 of EO 13563. NAWE therefore recommends the removal of MTOs from the timelines proposed by 46 CFR § 541.7.

Finally, Section 2 of EO 13579 directs independent agencies to seek the views of those who are likely to be affected by rulemakings, even before issuing a NPRM. The EO particularly emphasizes the importance of prior consultation with "those who are likely to benefit from and those who are potentially subject to such rulemaking." Consistent with this guidance, the FMC should be engaging with MTOs (beyond this general public comment period) regarding the timing and costs of any proposed change to present demurrage billing practices, to understand the practical economic and operational impacts. The level of engagement with ocean carriers

[2] EO 13579 "emphasizes the potential value of approaches that improve the operation of free markets or that maintain and promote flexibility and freedom of choice (for example, by ensuring informed decisions, by choosing sensible default rules, by selecting performance standards rather than design standards, and by using tradable permits rather than rigid commands)." M-11-28 (July 22, 2011).

and MTOs should be at least equivalent to the level of engagement that the FMC has with BCOs, who potentially stand to benefit from the rulemaking. NAWE therefore recommends the immediate creation of an MTO advisory committee, in the same fashion as to the National Shipper Advisory Committee, to ensure that all stakeholder views are adequately represented during this regulatory development period. As explained in these comments, there are numerous existing practices and significant financial investments that would be negatively impacted by this proposed rule, in addition to potential undesirable consequences on cargo fluidity. It is therefore critical for the FMC and MTOs to establish an open dialogue to mitigate these impacts, while achieving the objective of transparent demurrage and detention practices, consistent with the FMC's Interpretive Rule.

Conclusion

For the foregoing reasons, the Commission:

1) should not apply the OSRA 2022 substantive invoice requirements to MTOs;
2) should ensure that any regulation of MTO demurrage charges (if any) are consistent with the Commission's FMC's interpretive rule on unreasonable practices at 46 CFR §545.4;
3) should not limit the entities that MTOs may properly invoice for demurrage charges;
4) should give deference to the existing MTO electronic billing systems that support cargo fluidity;
5) should supplement the NPRM with a quantitative and qualitative cost and benefit analysis that considers, at a minimum, the proposed rule's impact on:
    a. container dwell times;
    b. the direct and indirect costs of MTOs and ocean carriers from technology enhancements and administrative costs;
    c. demurrage and detention billings compared to current practices; and
    d. port security, including the risk of container theft;
6) should remove MTOs from the timelines proposed by 46 CFR § 541.7; and
7) should immediately form an MTO advisory committee, in the same fashion as to the National Shipper Advisory Committee, to better understand the supply chain impacts of the proposed rule.

NAWE again wishes to thank the FMC for engaging in a public process and giving careful consideration to the structure and content of a potential demurrage and detention final rule. We look forward to our continued engagement with you throughout this process and please do not hesitate to contact the undersigned with any questions.

Sincerely,

Robert Murray
President