

August 19, 2015

Ms. Karen V. Gregory
Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, DC 20573

Dear Ms. Gregory,

The Retail Industry Leaders Association (RILA) and its membership thank the Federal Maritime Commission for the opportunity to submit comments on the recently-filed amendment to the Oakland Marine Terminal Operators (MTO) Agreement. RILA members oppose the amendment in its current form, specifically the plan to implement "OAKPASS," an off-peak hours program.

RILA is an organization of the world's most successful and innovative retailer and supplier companies – the leaders of the retail industry. RILA members represent more than \$1.5 trillion in annual sales and operate more than 100,000 stores, manufacturing facilities, and distribution centers nationwide. Our member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide.

RILA and its members actively support efforts to improve our nation's ports and to alleviate the scourge of congestion that has plagued the ports in recent years. As the Federal Maritime Commission is well aware, congestion continues to be a significant problem in Oakland and other U.S. ports, and hinders the country's capacity for economic growth. However, to implement a PierPass-like program in the Port of Oakland and to do so without the involvement of major stakeholder groups will not improve the situation, and could likely even be detrimental.

The causes of congestion in Oakland and other ports are manifold, and initiatives to address the congestion should include comprehensive, data-based analysis of the causes, interrelated systems, and systemic shortcomings that contribute to the issue. The same degree of analysis should be applied when determining the projected effectiveness of possible strategies to reduce congestion. Moreover, the process should include the input of all major stakeholders, in an effort to reflect a thorough understanding of the issues and potential solutions.

We are troubled by the current lack of data, analysis, and especially transparency on the matter of the OAKPASS program. We are also concerned with the perception that it is seemingly driven by a reactionary desire to address recent increases in congestion felt at the Port of Oakland, rather than being the result of thorough analysis and cooperative, transparent development.

To date there has been little clarity around the strategy and goals of the OAKPASS program, as well as the operational details of its implementation. There is no understanding of the possible fee structure of the program, and it remains to be seen how many or which terminals would be subject to the program, or if the program would be port-wide at all. Furthermore, the program would entail additional work shifts—but, with labor issues already a factor in Oakland’s congestion this summer, there is also no guarantee that the port would be able to support additional gate hours. Likewise, we do not know if this program is to be in place year-round, or only during peak season or other times of high demand. The terms and conditions of the plan remain a question mark.

Apart from “easing congestion,” we do not have clarity around the program’s goals or the metrics to be used to measure its impact. Without a full understanding of the metrics, current performance, and projected effect of the program, it is difficult to determine the program’s viability. In addition to performance measures, the program should also feature full financial transparency.

While extensive analysis and documentation may exist outlining the details of Oakland’s current situation and the concrete ways in which OAKPASS would improve these, no such material has been made available to stakeholders, the public and, to our knowledge, the Commission. This lack of transparency is troubling.

The PierPass program, on which OAKPASS is reportedly modeled, was originally intended to reduce highway congestion—not the terminal congestion which Oakland seeks to address. Furthermore, beyond the relative success of its initial rollout over ten years ago, in 2005, PierPass has grown into a system of disputed effectiveness. It also suffers from some of the same issues regarding lack of operational and financial transparency. Many industry stakeholders, including RILA’s members, have significant questions about the efficacy of PierPass as a continuing program. For OAKPASS to try to emulate that flawed model without a more thorough understanding of shortcomings and lessons learned would be a considerable misstep.

RILA and its membership oppose the proposed Oakland MTO Agreement amendment in its current form. We urge the Commission to seek more information on the OAKPASS plan, including detailed analysis and tactics. This information should also be made available to the public. Such details include, but are not limited to:

- An analysis of causes of current port congestion, developed with input of all stakeholders
- Metrics used to map congestion trends and port’s performance on said metrics
- Other possible solutions/methods considered for reducing congestion
- Rationale for wanting to adopt OAKPASS program
- Methodology used to develop program
- Demonstration of stakeholder input/involvement in development of program (or other means of easing congestion) and plan for transparent operations going forward
- Detailed strategy and goals of program, to include specific metrics and program’s projected impact
- Operational details of program, to include fee structure, proposed schedule/dates/hours, timeline, plan for labor support, participating terminals, and so forth
- Financial plan and projected earnings/performance and costs, and plan for ongoing financial transparency
- Plans for use/reinvestment of revenue
- Operating structure and tactical details of how program is to be run

We support efforts to improve the performance of our nation's ports, and believe that high-performing ports are truly essential to remaining competitive in the global marketplace. However, vague efforts undertaken in a potentially injudicious attempt at "easing congestion" without proper investigation and evaluation are not the way to improve the ports. In fact, such efforts can stand in the way of real improvements, and can harm stakeholders in the port ecosystem. That is why we oppose this amendment.

Through better understanding of the port's situation, and increased transparency around ideas to improve operations and alleviate congestion, the industry can work together and find better solutions.

Thank you,

A handwritten signature in black ink, appearing to read "JDankert", written in a cursive style.

Jessica Dankert
Senior Director, Retail Operations