

**STATEMENT OF
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**BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON THE STATUS OF THE U.S. MARITIME SUPPLY CHAIN DURING
THE COVID-19 PANDEMIC**

May 28, 2020

Good afternoon, Chairman Maloney, Ranking Member Gibbs, and members of the Subcommittees. My name is Lauren Brand, and I am the President of the National Association of Waterfront Employers, otherwise known as NAWE. Thank you for this opportunity to discuss the impact of the COVID-19 pandemic on the U.S. marine terminal operating and stevedoring industries. Even more importantly, the members of NAWE and I thank you for keeping our nation's ports open during this global pandemic. Your designation of waterfront workers as essential and your recognition of the entire port ecosystem as being critical has strengthened our commitment to work.

NAWE is the voice in Washington for U.S. marine terminal operators, stevedores, and operating port authorities. The Association represents interests based at U.S. coastal ports and those based in U.S. territories. Members also include the associations responsible for labor relations and contract negotiations with the ILA and the ILWU from Maine to Texas and from Seattle to San Diego. Formed initially around common interests in providing compensation to injured longshoremen, NAWE was active in supporting maritime security regulation at our ports' facilities following 9/11. Today, NAWE's portfolio represents the full spectrum of port operators' interaction with the Federal Government, including informing the development of national freight policies, infrastructure funding, port safety, security protocols, the environment, and workforce policies. NAWE is honored to serve as a subject matter expert to Federal Agencies and Departments on issues related to intermodal transportation. It is important to note that 44 Federal Agencies within 14 Federal Departments oversee marine terminal operators, stevedoring firms and operating port authorities.¹ NAWE's members remain committed to moving the freight needed and wanted by the people of the United States. We are here to ask for your consideration to help us remain on the job.

Who Are Port Operators?

Port operators, while based in the United States and employing U.S. citizens, work with global markets. They receive goods sourced from around the world and ensure these are safely moved

¹ Source: <https://www.cmts.gov/resources/compendium>

onto other domestic modes that will complete the delivery process. More importantly, they receive U.S. exports and ensure these are loaded onto the right vessel for delivery overseas. What happens in North, Central and South America, Europe, Asia, Africa, and other far flung regions impact the business of terminal operators. We are a critical part of the U.S. maritime transportation industry, responsible for safely, securely and efficiently transporting cargoes between vessels, trucks and rail. To do so, NAWE's members lease waterfront land from public port authorities and build their own facilities. Within their terminal area, they hire labor, fund the purchase of cargo moving equipment, construct intermodal infrastructure and design systems that track each shipment and communicate with their customers: vessel operators, truckers, railroads and, of course, cargo owners.

What is our ask?

We are seeking a bridge for FY20 and FY21 that will help marine terminal operators, stevedores and port authorities through this difficult time as freight continues to react to the global pandemic. We ask that a bridge program be enacted that will assist these maritime partners defray COVID-19 related expenses including lease and other contractual expenses necessary to keep the ports open, terminals operating and workers employed.

What are our most significant COVID-19 related challenges?

Taking care of waterfront workers has been our first priority. While personal protective equipment (PPE) and cleaning supplies were difficult to obtain during February, March and April, the majority of NAWE's members are now able to procure supplies through commercial sources. None of our members approached regional Emergency Relief Agencies for supplies in an effort to help the medical profession who were also on the front lines of this crisis. Some terminal operators were assisted by public port authorities and have appreciated their efforts. The vast majority of items² were purchased from regular commercial sources, but when those could not be delivered in time, alternate sources were found locally at Ace Hardware, Home Depot, Lowes, Walmart, and Dollar Stores. Commercial supply chains for these items are now in place. The rapid price increase experienced by all was crippling as these expenses were not expected by anyone. Continuous price increases for items was daunting; masks and gloves rose an audacious 25% in one week during April. One NAWE member obtained PPE by working with a local tequila producer who made tequila-based sanitizer in drums. The drums were distributed to terminals where they were bottled for individual use. (yes, warning labels were added to bottles; "do not drink the sanitizer").

² This list was compiled through the National Maritime Safety Association (<http://nmsa.us/>). It includes: Digital non-contact infrared thermometers; disinfecting soap and bottles / dispensers / sprayers; sanitizing wipes; masks (N95 preferred); non-permeable gloves/Nitrile preferred 6 mil or 8 mil; toilet paper; paper towels; tissues; disinfectant spray to sanitize equipment (Hospital grade); individual hand sanitizers to be distributed; hand sanitizers stations and refills; goggles; heavy rubber gloves for cleaning; foggers; coveralls; 2 gallon garden pump & spray. *Note:* disinfectant must be on the EPA list of approved COVID-19 fighting products at: <https://www.americanchemistry.com/Novel-Coronavirus-Fighting-Products-List.pdf>

In an effort to increase safety while continuing to work, terminal operations and protocols have been adjusted to care for workers and personnel. Every aspect of the design of each terminal was taken into consideration. Where do people normally congregate? Which surfaces are frequently touched? How many? When? How often? The questions are never ending. It is important to note that labor and management are working together to implement the best decisions and provide protections. All have been selflessly dedicated to the commitment to keep terminals open and freight moving. Examples of changes made include:

- Formerly two machines would be rotated among three people during a shift. Now one machine is shared between two people on a shift. This increases cost as more machines are needed online during a shift while it decreases exposure to personnel.
- A realignment of space within terminal facilities to accommodate storage of abandoned cargoes, stranded cargoes and empty containers.
- Separating essential cargoes from non-essential cargoes to allow for more efficient delivery of medical items and PPE. This requires closer coordination with cargo owners, as terminal operators do not normally know exactly what is in each container. They do however know which contain hazardous materials, which need temperature monitoring, etc. to facilitate proper handling of those units.
- An entire terminal management team was quarantined for 14 days when they were exposed to a security guard who tested positive for COVID-19.
- Additional labor was brought in some regions to allow contingent teams to be organized if one was forced into quarantine. In other regions, fewer personnel were hired due to the reduction in vessel arrivals (blank sailings³).

Terminal facilities are being rearranged to accommodate new needs. The storage of abandoned cargoes, while currently only at 1.5%, is expected to grow on the West Coast. Cargoes are considered abandoned once notification has been received from the consignee⁴ that they do not want to receive the shipment. The terminal then moves that container to a separate location within the terminal, securing it and ensuring its safety until a claim for the contents is settled. Examples of cargoes that have been abandoned at terminals include those for holidays that occurred during the COVID-19 pandemic: Valentine's Day, St. Patrick's Day, and Mother's Day. Also included are shipments of Spring and Summer fashions and other seasonal items that would normally have been delivered and sold in the months of February through May. To paint a picture, 40,000 chocolate bunnies are within just one container that should have been delivered in time to sell before the Easter holiday.

Likewise, storage of stranded cargoes is increasing, requiring monitoring of these units to ensure they are handled according to the protocols set for each type of cargo. Is the cargo temperature sensitive? Is it hazardous? What are the special needs? Stranded cargoes are those that have arrived, are cleared for pick up, yet the consignee is not able to accept these at this time and asks the terminal operator to store it for them. So many stores and related off port storage facilities

³ A 'blank sailing' is a cancelled sailing. A blank sailing could mean a vessel skipping one port along the route, or the entire journey being cancelled.

⁴ The difference between a shipper and a consignee is that the consignee is the receiver of the shipment.

have been closed with new inventories wanted but not yet needed. Examples of stranded cargoes include parts for manufacturing facilities, Summer fashions and automobiles.

What happens to an import container after it's been emptied? Hopefully, it has been filled with U.S. produced export cargo and it is returned to a marine terminal to be shipped overseas. Unfortunately, the United States has an imbalance of trade, with imports outpacing exports more than 2 to 1. Exports from the U.S. include a number of commodities made by industries that have been heavily impacted by the pandemic: commercial aircraft, fuel oil, automobiles, meat and poultry, autos and auto parts⁵. To date, exports in 2020 have declined to the lowest levels in over three years⁶, with the highest drop in higher value commodities. The reduction in vessel calls to ports has resulted in the remaining higher value exports – that pay the vessel operator more to ship – being loaded first, and lower value cargoes being left at the terminals. More unexpected freight for the port operator to securely store and safely monitor. Security oversight, as mandated by law, require resources that are not recoverable when cargo volumes are declining. Quarantines on passengers and crews and the additional screening of workers under newly implemented safety protocols are having a direct impact on security duties and costs.

Managing the fiscal impact of reduced revenues and increased costs while challenged by the overt uncertainty of what the future holds. We are aware that every link in the supply chain has lost revenue, and that the entire industry has been fiscally impacted. We are also very aware of the vital role of each partner in the supply chain. We want all to remain liquid and fulfill their role in our national transportation system. And we have a responsibility to ensure we are ready, open for business, with healthy teams ready to do our job safely, securely and as efficiently as possible. A prime example of stressors on liquidity include management of empty containers that are stacking up in terminals. Our transportation system usually cycles empties for exports or they are picked up by passing vessels to return them overseas to be refilled and brought back again. A normal business practice is to not charge for storage, but to assess a handling fee when containers arrive and depart. NAWA member container yards have units in them that have not moved for months, thereby generating a 100% decline in revenues. Another example are lease payments for marine terminals. Marine terminal agreements with their landlord port authorities include a 'minimum annual revenue guarantee' clause that is based on volumes. When expected volumes do not materialize, port authorities are not able to collect dockage, wharfage and other fees related to supporting the needs of vessels while they are in port.

Moody's Investor Service issued a report May 13, 2020 that states "However, most US ports are organized as landlords and receive 40% - 70% of revenues in the form of guaranteed payments under long-term leases from tenants." It also states, "Port operators and customers will face significant pressure as throughput materially declines in the months ahead." They predict this decline will approach or exceed the decline of the 2008-2009 global financial crisis. The report continues with "Tenants have expenditure flexibility to adapt to lower volumes, but a severe downturn would pressure stability." And "Lower volume can be partially managed by operators' expenditure flexibility, but the impact of such an unprecedented shock is ultimately uncertain." We are seeing a severe downturn that will continue into the remainder of the year, impacting a port operator's ability to ensure continued liquidity.

⁵ <https://www.thebalance.com/u-s-imports-and-exports-components-and-statistics-3306270>

⁶ <https://tradingeconomics.com/united-states/exports>

Landlord ports include this minimum annual revenue guarantee clause to help them recover potentially lost fees if volumes should decline. This is normally considered an incentive clause to encourage the terminal operator (tenant) to maximize volume throughput by working hard to attract new business to the port, and thereby their terminal. It has not been envisioned to become a punitive charge during a global pandemic, that increases lease payments at the same time volumes spiral downwards, operating costs increase, and revenues take a nosedive.

What COVID-19 related unmet needs remain?

Taking care of personnel: The on-going cost of PPE and cleaning supplies has been exceeded by the cost of having to sanitize equipment and machinery before and after each work shift. The application cost of ensuring equipment and machinery are safe to use exceeds that of the cost of disinfectant. NAWA members are spending between \$75,000 and \$335,000 per week on these new expenses. Documented costs for one coastal region alone exceed \$1 million per week. Compounding this new financial burden is the cost of safeguarding the workplace such as conducting regular temperature checks for several thousand employees and visitors as they enter each terminal facility. No one is talking about ending cleaning protocols. A bridge is needed to allow waterfront employers time to engage with customers and adapt these new expenses into operations.

Adjusting terminal operations: As volumes drop, terminal and gate hours must be adjusted to allow the existing business to support operations as much as possible. Reduced gate hours require truckers to be diligent in collecting containers. As each terminal supports a different profile of customers, we are seeing a range in business declines from a low of 17% to a high of 32%. The year 2020 will be one of the worst on record, with Q1 and Q2 an average of 20% below projections, Q3 generating uncertainty and another drop expected in Q4. Shipping is seasonal, with one more peak season ahead of us. The National Retail Federation issued a report May 11, 2020⁷, confirming the forecast by Global Port Tracker, a firm that provides historical data and forecasts for 13 of the top U.S. coastal ports. They do not show a smart recovery in Q3. Included in Q3 shipments are back to school supplies, Fall fashions and fall/winter holiday goods. Rather, they are predicting a slow recovery beginning in Q4 or early 2021 (see chart).

Month in 2020	Estimate of TEU (number of containers handled)	Decline from same time last year, YTD
April	1.51 million	- 13.4%
May	1.47 million	- 20.4%
June	1.46 million	- 18.6%
July	1.58 million	- 19.3%
August	1.73 million	- 12%
September	1.7 million	- 9.3%

⁷ <https://www.lloydsloadinglist.com/freight-directory/news/US-box-import-declines-forecast-to-continue/76566.htm#.XsqYHy-z2L9>

While the majority of this paper has referenced container terminal concerns, NAWE's members also operate roll on/roll off terminals for vehicle and heavy equipment movement, breakbulk terminals that move steel and lumber products, and bulk terminals that focus on construction materials. Imagine the cars that are sitting on terminal land, rows upon rows of new vehicles waiting to be moved to dealers across the nation. With Hertz, Avis and others cancelling their orders for new vehicles, how long will some of these autos continue to encumber limited space on terminals? Steel waits for manufacturing plants to reopen. No sector of freight is immune to the impact of COVID-19. And each stress the resources of the terminal operators.

Beyond freight, our members also support the provisioning of cruise ships and the embarkation and disembarkation of cruise passengers – matching each with their baggage both on and off the ship. Marine/cruise terminal operators have a special duty of care to passengers. They are strategically planning to protect their employees, waterfront workers and the guests who will transit terminals on way to their vacation. Cruise ships have announced they will now accept bookings for cruises scheduled to sail late July and early August – and the public is responding. The costs to protect workers and guests will be a major issue. Security costs will be dramatically increased in these instances...even more expenses needed to be funded.

NAWE's members are scouring Federal regulations seeking support for what COVID-19 can be considered. It defies definition of any prior crisis of our time. Port operators are moving forward with strategic planning, logical implementation of those plans, and making nimble adjustments when needed. It is the cost of these actions, necessary to keep marine terminal open and freight moving, that is our problem.

In conclusion

We would like to take a moment to recognize the many Federal teams who have worked with us during this unprecedented time: the U.S. Coast Guard (USCG), Federal Maritime Commission (FMC), and the Maritime Administration (MARAD). While many Federal partners are working with us, these have gone above and beyond in their efforts to be of assistance. The USCG have maintained oversight as required under 33 CFR part 126 while balancing new protocols put into place to address the threat of COVID-19. The FMC has reached out to NAWE to see what they can do to be of assistance. Sometimes a call or a letter makes a big difference. MARAD has stepped up by hosting industry calls that include our members, allowing us to share information and concerns with our maritime transportation partners. MARAD heard our request for PPE and are working with FEMA to supply masks for the maritime industry. NAWE's members requested 240,250 masks and believe these will provide a 90-day supply for our workers.

Marine terminal operators, stevedoring firms and operating port authorities are each experiencing reduced volumes in the face of dramatically increasing costs. They are committed to remaining open and ensuring the freight needs of the United States are met but cannot continue to do so without assistance. ***We ask that a bridge program be enacted that will assist waterfront employers and port authorities defray COVID-19 related expenses including lease and other contractual expenses necessary to keep the ports open, terminals operating, and workers employed.***

Again, thank you for this opportunity. We appreciate the selfless dedication of this Subcommittee and their continued support for U.S. port operators. We look forward to working with you to ensure the supply chain of the United States remains strong.

Attachments:

- Bio Lauren K. Brand
- Truth in Testimony form, signed
- Note: Witness Diversity Survey completed May 24, 2020