

Suspend the Rules and Pass the Bill, H.R. 4996, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

117TH CONGRESS
1ST SESSION

H. R. 4996

To amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 10, 2021

Mr. GARAMENDI (for himself and Mr. JOHNSON of South Dakota) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ocean Shipping Re-
5 form Act of 2021”.

1 **SEC. 2. PURPOSES.**

2 Section 40101 of title 46, United States Code, is
3 amended by striking paragraphs (2) through (4) and in-
4 serting the following:

5 “(2) ensure an efficient and competitive trans-
6 portation system for the common carriage of goods
7 by water in the foreign commerce of the United
8 States that is, as far as possible, in harmony with
9 fair and equitable international shipping practices;

10 “(3) encourage the development of a competi-
11 tive and efficient liner fleet of vessels of the United
12 States capable of meeting national security and com-
13 merce needs of the United States;

14 “(4) support the growth and development of
15 United States exports through a competitive and ef-
16 ficient system for the common carriage of goods by
17 water in the foreign commerce of the United States
18 and by placing a greater reliance on the market-
19 place; and

20 “(5) promote reciprocal trade in the common
21 carriage of goods by water in the foreign commerce
22 of the United States.”.

23 **SEC. 3. SERVICE CONTRACTS.**

24 Section 40502 of title 46, United States Code, is
25 amended—

26 (1) in subsection (c)—

1 (A) in paragraph (7) by striking “; and”
2 and inserting a semicolon;

3 (B) in paragraph (8) by striking the period
4 and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(9) any other essential terms or minimum con-
7 tract requirements that the Federal Maritime Com-
8 mission determines necessary or appropriate.”; and

9 (2) by adding at the end the following:

10 “(g) SERVICE CONTRACT REQUIREMENT.—With re-
11 spect to service contracts entered into under this section,
12 a common carrier shall establish, observe, and enforce just
13 and reasonable regulations and practices relating to essen-
14 tial terms and minimum contract requirements the Com-
15 mission determines are necessary or appropriate under
16 subsection (e)(9).”.

17 **SEC. 4. SHIPPING EXCHANGE REGISTRY.**

18 (a) IN GENERAL.—Chapter 405 of title 46, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 **“§ 40504. Shipping exchange registry**

22 “(a) IN GENERAL.—No person may operate a ship-
23 ping exchange involving ocean transportation in the for-
24 eign commerce of the United States unless the shipping
25 exchange is registered as a national shipping exchange

1 under the terms and conditions provided in this section
2 and the regulations issued pursuant to this section.

3 “(b) REGISTRATION.—A person shall register a ship-
4 ping exchange by filing with the Federal Maritime Com-
5 mission an application for registration in such form as the
6 Commission, by rule, may prescribe containing the rules
7 of the exchange and such other information and docu-
8 ments as the Commission, by rule, may prescribe as nec-
9 essary or appropriate in the public interest.

10 “(c) EXEMPTION.—The Commission may exempt,
11 conditionally or unconditionally, a shipping exchange from
12 registration and licensing under this section if the Com-
13 mission finds that the shipping exchange is subject to com-
14 parable, comprehensive supervision and regulation by the
15 appropriate governmental authorities in the home country
16 of the shipping exchange.

17 “(d) REGULATIONS.—In issuing regulations pursu-
18 ant to subsection (a), the Commission shall set standards
19 necessary to carry out subtitle IV for registered national
20 shipping exchanges, including the minimum requirements
21 for service contracts established under section 40502, and
22 issue licenses for registered national shipping exchanges.

23 “(e) DEFINITION.—In this subsection, the term ‘ship-
24 ping exchange’ means a platform, digital, over-the-counter
25 or otherwise, which connects shippers with common car-

1 riers (both vessel-operating and non-vessel-operating) for
2 the purpose of entering into underlying agreements or con-
3 tracts for the transport of cargo, by vessel or other modes
4 of transportation.”.

5 (b) **APPLICABILITY.**—The registration requirement
6 under section 40504 of title 46, United States Code (as
7 added by this section), shall take effect on the date on
8 which the Federal Maritime Commission issues regula-
9 tions required under subsection (d) of such section.

10 (c) **CLERICAL AMENDMENT.**—The analysis for chap-
11 ter 405 of title 46, United States Code, is amended by
12 adding at the end the following:

“40504. Shipping exchange registry.”.

13 **SEC. 5. DATA COLLECTION.**

14 (a) **IN GENERAL.**—Chapter 411 of title 46, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 41110. Data collection**

18 “(a) **IN GENERAL.**—Common carriers covered under
19 this chapter shall submit to the Federal Maritime Com-
20 mission a calendar quarterly report that describes the
21 total import and export tonnage and the total loaded and
22 empty 20-foot equivalent units per vessel (making port in
23 the United States, including any territory or possession
24 of the United States) operated by such common carrier.

1 “(b) PROHIBITION ON DUPLICATION.—Data required
2 to be reported under subsection (a) may not duplicate in-
3 formation—

4 “(1) submitted to the Corps of Engineers pur-
5 suant to section 11 of the Act entitled ‘An Act au-
6 thorizing the construction, repair, and preservation
7 of certain public works on rivers and harbors, and
8 for other purposes’, approved September 22, 1922
9 (33 U.S.C. 555), by an ocean common carrier acting
10 as a vessel operator; or

11 “(2) submitted pursuant to section 481 of the
12 Tariff Act of 1930 (19 U.S.C. 1481) to U.S. Cus-
13 toms and Border Protection by merchandise import-
14 ers.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-
16 ter 411 of title 46, United States Code, is amended by
17 adding at the end the following:

“41110. Data collection.”.

18 **SEC. 6. NATIONAL SHIPPER ADVISORY COMMITTEE.**

19 (a) NATIONAL SHIPPER ADVISORY COMMITTEE.—
20 Section 42502(c)(3) of title 46, United States Code, is
21 amended by inserting “, including customs brokers or
22 freight forwarders” after “ocean common carriers” each
23 place such term occurs.

1 (b) ANALYSIS.—The analysis for chapter 425 of title
2 46, United States Code, is amended by inserting before
3 the item relating to section 42501 the following:

“Sec.”.

4 **SEC. 7. ANNUAL REPORT AND PUBLIC DISCLOSURES.**

5 (a) REPORT ON FOREIGN LAWS AND PRACTICES.—
6 Section 46106(b) of title 46, United States Code, is
7 amended—

8 (1) in paragraph (5) by striking “and” at the
9 end;

10 (2) in paragraph (6)—

11 (A) by striking “under this part” and in-
12 serting “under chapter 403”; and

13 (B) by striking the period and inserting a
14 semicolon; and

15 (3) by adding at the end the following:

16 “(7) an identification of any anticompetitive or
17 nonreciprocal trade practices by ocean common car-
18 riers;

19 “(8) an analysis of any trade imbalance result-
20 ing from the business practices of ocean common
21 carriers, including an analysis of the data collected
22 under section 41110; and

23 “(9) an identification of any otherwise con-
24 cerning practices by ocean common carriers, particu-
25 larly such carriers that are—

1 “(A) State-owned or State-controlled enter-
2 prises; or

3 “(B) owned or controlled by, is a sub-
4 sidiary of, or is otherwise related legally or fi-
5 nancially (other than a minority relationship or
6 investment) to a corporation based in a coun-
7 try—

8 “(i) identified as a nonmarket econ-
9 omy country (as defined in section 771(18)
10 of the Tariff Act of (U.S.C. 1677(18))) as
11 of the date of enactment of this paragraph;

12 “(ii) identified by the United States
13 Trade Representative in the most recent
14 report required by section 182 of the
15 Trade Act of 1974 (19 U.S.C. 2242) as a
16 priority foreign country under subsection
17 (a)(2) of that section; or

18 “(iii) subject to monitoring by the
19 Trade Representative under section 306 of
20 the Trade Act of 1974 (19 U.S.C. 2416).”.

21 (b) PUBLIC DISCLOSURE.—

22 (1) IN GENERAL.—Section 46106 of title 46,
23 United States Code, is amended by adding at the
24 end the following:

1 “(d) PUBLIC DISCLOSURES.—The Federal Maritime
2 Commission shall publish, and annually update, on the
3 website of the Commission—

4 “(1) all findings by the Commission of false
5 certifications by common carriers or marine terminal
6 operators under section 41104(a)(15) of this title;
7 and

8 “(2) all penalties imposed or assessed against
9 common carriers or marine terminal operators, as
10 applicable, under sections 41107, 41108, and 41109,
11 listed by each common carrier or marine terminal
12 operator.”.

13 (2) CONFORMING AND CLERICAL AMEND-
14 MENTS.—

15 (A) CONFORMING AMENDMENT.—The
16 heading for section 46106 of title 46, United
17 States Code, is amended by inserting “**and**
18 **public disclosure**” after “**report**”.

19 (B) CLERICAL AMENDMENT.—The analysis
20 for chapter 461 of title 46, United States Code,
21 is amended by striking the item related to sec-
22 tion 46106 and inserting the following:

“46106. Annual report and public disclosure.”.

23 **SEC. 8. GENERAL PROHIBITIONS.**

24 Section 41102 of title 46, United States Code, is
25 amended by adding by adding at the end the following:

1 “(d) PROHIBITION ON RETALIATION.—A common
2 carrier, marine terminal operator, or ocean transportation
3 intermediary, either alone or in conjunction with any other
4 person, directly or indirectly, may not retaliate against a
5 shipper, a shipper’s agent, or a motor carrier by refusing,
6 or threatening to refuse, cargo space accommodations
7 when available, or resort to other unfair or unjustly dis-
8 criminatory methods because the shipper has patronized
9 another carrier, has filed a complaint, or for any other
10 reason.

11 “(e) CERTIFICATION.—A common carrier or marine
12 terminal operator shall not charge any other person de-
13 murrage or detention charges under a tariff, marine ter-
14 minal schedule, service contract, or any other contractual
15 obligation unless accompanied by an accurate certification
16 that such charges comply with all rules and regulations
17 concerning demurrage or detention issued by the Commis-
18 sion. The certification requirement only applies to the en-
19 tity that establishes the charge, and a common carrier or
20 marine terminal operator that collects a charge on behalf
21 of another common carrier or marine terminal operator
22 is not responsible for providing the certification, except
23 that an invoice from a common carrier or marine terminal
24 operator collecting a charge on behalf of another must in-

1 clude a certification from the party that established the
2 charge.”.

3 **SEC. 9. PROHIBITION ON UNREASONABLY DECLINING**
4 **CARGO.**

5 (a) UNREASONABLY DECLINING CARGO.—Section
6 41104 of title 46, United States Code, is amended in sub-
7 section (a)—

8 (1) by striking paragraph (3) and inserting the
9 following:

10 “(3) engage in practices that unreasonably re-
11 duce shipper accessibility to equipment necessary for
12 the loading or unloading of cargo;”;

13 (2) in paragraph (12) by striking “; or” and in-
14 serting a semicolon;

15 (3) in paragraph (13) by striking the period
16 and inserting a semicolon; and

17 (4) by adding at the end the following:

18 “(14) fail to furnish or cause a contractor to
19 fail to furnish containers or other facilities and in-
20 strumentalities needed to perform transportation
21 services, including allocation of vessel space accom-
22 modations, in consideration of reasonably foreseeable
23 import and export demands; or

24 “(15) unreasonably decline export cargo book-
25 ings if such cargo can be loaded safely and timely,

1 as determined by the Commandant of the Coast
2 Guard, and carried on a vessel scheduled for the im-
3 mediate destination of such cargo.”.

4 (b) RULEMAKING ON UNREASONABLY DECLINING
5 CARGO.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of enactment of this Act, the Commission
8 shall initiate a rulemaking proceeding to define the
9 term “unreasonably decline” for the purposes of
10 subsection (a)(15) of section 41104 of title 46,
11 United States Code (as added by subsection (a)).

12 (2) CONTENTS.—The rulemaking under para-
13 graph (1) shall address the unreasonableness of
14 ocean common carriers prioritizing the shipment of
15 empty containers while excluding, limiting, or other-
16 wise reducing the shipment of full, loaded containers
17 when such containers are readily available to be
18 shipped and the appurtenant vessel has the weight
19 and space capacity available to carry such containers
20 if loaded in a safe and timely manner.

21 **SEC. 10. DETENTION AND DEMURRAGE.**

22 (a) IN GENERAL.—Section 41104 of title 46, United
23 States Code, is further amended by adding at the end the
24 following:

1 “(d) CERTIFICATION.—Failure of a common carrier
2 to include a certification under section 41102(e) alongside
3 any demurrage or detention charge shall eliminate any ob-
4 ligation of the charged party to pay the applicable charge.

5 “(e) DEMURRAGE AND DETENTION PRACTICES AND
6 CHARGES.—Notwithstanding any other provision of law
7 and not later than 30 days of the date of enactment of
8 this subsection, a common carrier or marine terminal op-
9 erator, shall—

10 “(1) act in a manner consistent with any rules
11 or regulations concerning demurrage or detention
12 issued by the Commission;

13 “(2) maintain all records supporting the assess-
14 ment of any demurrage or detention charges for a
15 period of 5 years and provide such records to the
16 invoiced party or to the Commission on request; and

17 “(3) bear the burden of establishing the reason-
18 ableness of any demurrage or detention charges
19 which are the subject of any complaint proceeding
20 challenging a common carrier or marine terminal op-
21 erator demurrage or detention charges as unjust and
22 unreasonable.

23 “(f) PENALTIES FOR FALSE OR INACCURATE CER-
24 TIFIED DEMURRAGE OR DETENTION CHARGES.—In the
25 event of a finding that the certification under section

1 41102(e) was inaccurate, or false after submission under
2 section 41301, penalties under section 41107 shall be ap-
3 plied if the Commission determines, in a separate enforce-
4 ment proceeding, such certification was inaccurate or
5 false.”.

6 (b) RULEMAKING ON DETENTION AND DEMUR-
7 RAGE.—

8 (1) IN GENERAL.—Not later than 120 days
9 after the date of enactment of this Act, the Federal
10 Maritime Commission shall initiate a rulemaking
11 proceeding to establish rules prohibiting common
12 carriers and marine terminal operators from adopt-
13 ing and applying unjust and unreasonable demur-
14 rage and detention rules and practices.

15 (2) CONTENTS.—The rulemaking under para-
16 graph (1) shall address the issues identified in the
17 final rule published on May 18, 2020, titled “Inter-
18 pretive Rule on Demurrage and Detention Under
19 the Shipping Act” (85 Fed. Reg. 29638), including
20 the following:

21 (A) Establishing clear and uniform defini-
22 tions for demurrage, detention, cargo avail-
23 ability for retrieval and associated free time,
24 and other terminology used in the rule. The

1 definition for cargo availability for retrieval
2 shall account for government inspections.

3 (B) Establishing that demurrage and de-
4 tention rules are not independent revenue
5 sources but incentivize efficiencies in the ocean
6 transportation network, including the retrieval
7 of cargo and return of equipment.

8 (C) Prohibiting the consumption of free
9 time or collection of demurrage and detention
10 charges when obstacles to the cargo retrieval or
11 return of equipment are within the scope of re-
12 sponsibility of the carrier or their agent and be-
13 yond the control of the invoiced or contracting
14 party.

15 (D) Prohibiting the commencement or con-
16 tinuation of free time unless cargo is available
17 for retrieval and timely notice of cargo avail-
18 ability has been provided.

19 (E) Prohibiting the consumption of free
20 time or collection of demurrage charges when
21 marine terminal appointments are not available
22 during the free time period.

23 (F) Prohibiting the consumption of free
24 time or collection of detention charges on con-

1 tainers when the marine terminal required for
2 return is not open or available.

3 (G) Requiring common carriers to provide
4 timely notice of—

5 (i) cargo availability after vessel dis-
6 charge;

7 (ii) container return locations; and

8 (iii) advance notice for container early
9 return dates.

10 (H) Establishing minimum billing require-
11 ments, including timeliness and supporting in-
12 formation that shall be included in or with in-
13 voices for demurrage and detention charges
14 that will allow the invoiced party to validate the
15 charges.

16 (I) Requiring common carriers and marine
17 terminal operators to establish reasonable dis-
18 pute resolution policies and practices.

19 (J) Establishing the responsibilities of
20 shippers, receivers, and draymen with respect to
21 cargo retrieval and equipment return.

22 (K) Clarifying rules for the invoicing of
23 parties other than the shipper for any demur-
24 rage, detention, or other similar per container

1 charges, including determining whether such
2 parties should be billed at all.

3 (c) RULEMAKING ON MINIMUM SERVICE STAND-
4 ARDS.—Not later than 90 days after the date of enact-
5 ment of this Act, the Commission shall initiate a rule-
6 making proceeding to incorporate subsections (d) through
7 (f) of 41104 of title 46, United States Code, which shall
8 include the following:

9 (1) The obligation to adopt reasonable rules
10 and practices related to or connected with the fur-
11 nishing and allocation of adequate and suitable
12 equipment, vessel space accommodations, containers,
13 and other instrumentalities necessary for the receiv-
14 ing, loading, carriage, unloading and delivery of
15 cargo.

16 (2) The duty to perform the contract of car-
17 riage with reasonable dispatch.

18 (3) The requirement to carry United States ex-
19 port cargo if such cargo can be loaded safely and
20 timely, as determined by the Commandant of the
21 Coast Guard, and carried on a vessel scheduled for
22 such cargo's immediate destination.

23 (4) The requirement of ocean common carriers
24 to establish contingency service plans to address and
25 mitigate service disruptions and inefficiencies during

1 periods of port congestion and other market disrup-
2 tions.

3 **SEC. 11. ASSESSMENT OF PENALTIES.**

4 (a) ASSESSMENT OF PENALTIES.—Section 41109 of
5 title 46, United States Code, is amended—

6 (1) in subsection (a)—

7 (A) by inserting “or, in addition to or in
8 lieu of a civil penalty, order the refund of
9 money” after “this part”; and

10 (B) by inserting “or refund of money”
11 after “conditions, a civil penalty”;

12 (2) in subsection (c) by inserting “or refund of
13 money” after “civil penalty”;

14 (3) in subsection (e) by inserting “or order a
15 refund of money” after “civil penalty”; and

16 (4) in subsection (f) by inserting “or who is or-
17 dered to refund money” after “civil penalty is as-
18 sessed”.

19 (b) ADDITIONAL PENALTIES.—Section 41108(a) of
20 title 46, United States Code, is amended by striking “sec-
21 tion 41104(1), (2), or (7)” and inserting “subsections (d)
22 or (e) of section 41102 or paragraph (1), (2), (7), (14),
23 or (15) of section 41104(a)”.

24 (c) CONFORMING AMENDMENT.—Section 41309 of
25 title 46, United States Code, is amended—

1 (1) in subsection (a)—

2 (A) by inserting “or refund of money”
3 after “payment of reparation”; and

4 (B) by inserting “or to whom the refund of
5 money was ordered” after “award was made”;
6 and

7 (2) in subsection (b) by inserting “or refund of
8 money” after “award of reparation”.

9 (d) AWARD OF REPARATIONS.—Section 41305(c) of
10 title 46, United States Code, is amended—

11 (1) by inserting “or (e)” after “41102(b)”; and

12 (2) by inserting “, or if the Commission deter-
13 mines that a violation of section 41102(e) was made
14 willfully or knowingly” after “of this title”.

15 **SEC. 12. INVESTIGATIONS.**

16 Section 41302 of title 46, United States Code, is
17 amended by striking “or agreement” and inserting “,
18 agreement, fee, or charge”.

19 **SEC. 13. INJUNCTIVE RELIEF.**

20 Section 41307(b) to title 46, United States Code, is
21 amended—

22 (1) in paragraph (3)—

23 (A) in the heading by striking “AND THIRD
24 PARTIES”; and

25 (B) by striking the second sentence; and

1 (2) by adding at the end the following:

2 “(5) **THIRD PARTY INTERVENTION.**—The court
3 may allow a third party to intervene in a civil action
4 brought under this section.”.

5 **SEC. 14. TECHNICAL AMENDMENTS.**

6 (a) **FEDERAL MARITIME COMMISSION.**—The analysis
7 for chapter 461 of title 46, United States Code, is amend-
8 ed by striking the first item relating to chapter 461.

9 (b) **ASSESSMENT OF PENALTIES.**—Section 41109(c)
10 of title 46, United States Code, is amended by striking
11 “section 41104(1) or (2)” and inserting “paragraph (1)
12 or (2) of section 41104(a)”.

13 (c) **NATIONAL SHIPPER ADVISORY COMMITTEE.**—
14 Section 42502(c)(3) of title 46, United States Code is
15 amended by striking “REPRESENTATION” and all that fol-
16 lows through “Members” and inserting “REPRESENTA-
17 TION.—Members”.

18 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

19 Section 46108 of title 46, United States Code, is
20 amended by striking “\$29,086,888 for fiscal year 2020
21 and \$29,639,538 for fiscal year 2021” and inserting
22 “\$32,603,492 for fiscal year 2022 and \$35,863,842 for
23 fiscal year 2023”.

1 **SEC. 16. NAS STUDY ON SUPPLY CHAIN INDUSTRY.**

2 (a) IN GENERAL.—Not later than 60 days after the
3 date of enactment of this Act, the Secretary of Transpor-
4 tation shall seek to enter into an agreement with the Na-
5 tional Academy of Sciences under which the National
6 Academy shall conduct a study on the United States sup-
7 ply chain that examines data constraints that impede the
8 flow of maritime cargo and add to supply chain inefficien-
9 cies and that identifies data sharing systems that can be
10 employed to improve the functioning of the United States
11 supply chain.

12 (b) CONTENTS.—The study required under sub-
13 section (a) shall include—

14 (1) the identification of where bottlenecks or
15 chokepoints are most prominent within the United
16 States supply chain;

17 (2) the identification of what common shipping
18 data is created with each hand-off of a container
19 through the United States supply chain and how
20 such data is stored and shared;

21 (3) the identification of critical data elements
22 used by any entity covered by subsection (c), includ-
23 ing the key elements used for various supply chain
24 business processes;

25 (4) a review of the methodology used to store,
26 access, and disseminate shipping data across the

1 United States supply chain and evaluation of the in-
2 efficiencies in such methodology;

3 (5) an analysis of existing and potential impedi-
4 ments to the free flow of information among entities
5 covered by subsection (c), including—

6 (A) identification of barriers that prevent
7 carriers, terminals, and shippers from having
8 access to commercial data; and

9 (B) any inconsistencies in—

10 (i) terminology used across data ele-
11 ments connected to the shipment, arrival,
12 and unloading of a shipping container; and

13 (ii) the classification systems used
14 across the United States supply chain, in-
15 cluding inconsistencies in the names of en-
16 tities covered by subsection (c), geo-
17 graphical names, and terminology;

18 (6) the identification of information to be in-
19 cluded in an improved data sharing system designed
20 to plan, execute, and monitor the optimal loading
21 and unloading of maritime cargo; and

22 (7) the identification of existing software and
23 data sharing platforms available to facilitate propa-
24 gation of information to all agents involved in the
25 loading and unloading of maritime cargo and evalu-

1 ate the effectiveness of such software and platforms
2 if implemented.

3 (c) COLLECTION OF INFORMATION.—In conducting
4 the study required under subsection (a), the National
5 Academy of Sciences shall collect information from—

6 (1) vessel operating common carriers and non-
7 vessel operating common carriers;

8 (2) marine terminal operators;

9 (3) commercial motor vehicle operators;

10 (4) railroad carriers;

11 (5) chassis providers;

12 (6) ocean transportation intermediaries;

13 (7) custom brokers;

14 (8) freight forwarders;

15 (9) shippers and cargo owners;

16 (10) the National Shipper Advisory Committee;

17 (11) relevant government agencies, such as the

18 Federal Maritime Commission, the Surface Trans-
19 portation Board, and the United States Customs
20 and Border Protection;

21 (12) to the extent practicable, representatives of
22 foreign countries and maritime jurisdictions outside
23 of the United States; and

1 (13) any other entity involved in the transpor-
2 tation of ocean cargo and the unloading of cargo
3 upon arrival at a port.

4 (d) FACILITATION OF DATA SHARING.—In carrying
5 out the study under subsection (a), the National Academy
6 of Sciences may solicit information from any relevant
7 agency relating to the United States supply chain.

8 (e) REPORT.—Not later than 18 months after enter-
9 ing into an arrangement with the Secretary under sub-
10 section (a), the National Academy of Sciences shall submit
11 to the Committee on Transportation and Infrastructure
12 of the House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Senate,
14 and make available on a publicly accessible website, a re-
15 port containing—

16 (1) the study required under subsection (a);

17 (2) the information collected under subsections
18 (b) and (c), excluding any personally identifiable in-
19 formation or sensitive business information; and

20 (3) any recommendations for—

21 (A) common data standards to be used in
22 the United States supply chain; and

23 (B) policies and protocols that would
24 streamline information sharing across the
25 United States supply chain.

1 **SEC. 17. TEMPORARY EMERGENCY AUTHORITY.**

2 (a) PUBLIC INPUT ON INFORMATION SHARING.—

3 (1) IN GENERAL.—Not later than 30 days after
4 the date of enactment of this Act, the Federal Mari-
5 time Commission shall issue a request for informa-
6 tion seeking public comment regarding—

7 (A) whether congestion of the common car-
8 riage of goods has created an emergency situa-
9 tion of a magnitude such that there exists a
10 substantial adverse effect on the competitive-
11 ness and reliability of the international ocean
12 transportation supply system;

13 (B) whether an emergency order described
14 in subsection (b) would alleviate such an emer-
15 gency situation; and

16 (C) the appropriate scope of such an emer-
17 gency order, if applicable.

18 (2) CONSULTATION.—During the public com-
19 ment period under paragraph (1), the Commission
20 may consult, as the Commission determines to be
21 appropriate, with—

22 (A) other Federal departments and agen-
23 cies; and

24 (B) persons with expertise relating to mar-
25 itime and freight operations.

1 (b) AUTHORITY TO ISSUE EMERGENCY ORDER RE-
2 QUIRING INFORMATION SHARING.—On making a unani-
3 mous determination described in subsection (c), the Com-
4 mission may issue an emergency order requiring any com-
5 mon carrier or marine terminal operator to share directly
6 with relevant shippers, rail carriers, or motor carriers in-
7 formation relating to cargo throughput and availability, in
8 order to ensure the efficient transportation, loading, and
9 unloading of cargo to or from—

10 (1) any inland destination or point of origin;

11 (2) any vessel; or

12 (3) any point on a wharf or terminal.

13 (c) DESCRIPTION OF DETERMINATION.—

14 (1) IN GENERAL.—A determination referred to
15 in subsection (b) is a unanimous determination by
16 the Commission that congestion of common carriage
17 of goods has created an emergency situation of a
18 magnitude such that there exists a substantial ad-
19 verse effect on the competitiveness and reliability of
20 the international ocean transportation supply sys-
21 tem.

22 (2) FACTORS FOR CONSIDERATION.—In issuing
23 an emergency order under subsection (b), the Com-
24 mission shall ensure that such order includes param-
25 eters relating to temporal and geographic scope, tak-

1 ing into consideration the likely burdens on ocean
2 carriers and marine terminal operators and the like-
3 ly benefits on congestion relating to the purposes de-
4 scribed in section 40101 of title 46, United States
5 Code.

6 (d) PETITIONS FOR EXCEPTION.—

7 (1) IN GENERAL.—A common carrier or marine
8 terminal operator subject to an emergency order
9 issued under this section may submit to the Com-
10 mission a petition for exception from 1 or more re-
11 quirements of the emergency order, based on a
12 showing of undue hardship or other condition ren-
13 dering compliance with such a requirement imprac-
14 tical.

15 (2) DETERMINATION.—Not later than 21 days
16 after the date on which a petition for exception
17 under paragraph (1) is submitted, the Commission
18 shall determine whether to approve or deny such pe-
19 tition by majority vote.

20 (3) INAPPLICABILITY PENDING REVIEW.—The
21 requirements of an emergency order that is the sub-
22 ject of a petition for exception under this subsection
23 shall not apply to a petitioner during the period for
24 which the petition is pending.

25 (e) LIMITATIONS.—

1 (1) TERM.—An emergency order issued under
2 this section shall remain in effect for a period of not
3 longer than 60 days.

4 (2) RENEWAL.—The Commission may renew an
5 emergency order issued under this section for an ad-
6 ditional term by a unanimous determination by the
7 Commission.

8 (f) SUNSET.—The authority provided by this section
9 shall terminate on the date that is 2 years after the date
10 of enactment of this Act.

11 (g) DEFINITIONS.—In this section:

12 (1) COMMON CARRIER.—The term “common
13 carrier” has the meaning given such term in section
14 40102 of title 46, United States Code.

15 (2) MOTOR CARRIER.—The term “motor car-
16 rier” has the meaning given such term in section
17 13102 of title 49, United States Code.

18 (3) RAIL CARRIER.—The term “rail carrier”
19 has the meaning given such term in section 10102
20 of title 49, United States Code.

21 (4) SHIPPER.—The term “shipper” has the
22 meaning given such term in section 40102 of title
23 46, United States Code.

1 **SEC. 18. DETERMINATION OF BUDGETARY EFFECTS.**

2 The budgetary effects of this Act, for the purpose of
3 complying with the Statutory Pay-As-You-Go Act of 2010,
4 shall be determined by reference to the latest statement
5 titled “Budgetary Effects of PAYGO Legislation” for this
6 Act, submitted for printing in the Congressional Record
7 by the Chairman of the House Budget Committee, pro-
8 vided that such statement has been submitted prior to the
9 vote on passage.