



HARDWOOD FEDERATION

Hardwood Federation June 2021 Newsletter

From the Executive Director:

Before I go into my regular column I would like to recognize and thank HFPAC and Policy Manager Cary Moon who is leaving the Hardwood Federation team today after eleven years of outstanding service to the industry. For those of you that have had the privilege to work with Cary, you know he is a great person and a tremendous professional. While I am personally and professionally sad to see him go, he is off to new opportunities and a very bright future. Thank you Cary!!! Good luck in all your future endeavors!!

Maritime Shipping Problems Persist with Increased Scrutiny

If you are an Exporter, Importer, or someone who pays attention to the news you are surely aware of the severe problems regarding International Maritime Shipping and the backlogs at our domestic ports. The on-going shipping crisis is not new, but the result of several years of demurrage (leaving a container on a marine terminal longer than allowed, and detention – maintaining possession of a container longer than allowed) penalties against exporters, as well as unreasonable practices by international ocean carriers. The last three decades in the ocean shipping industry have brought consolidation to a sector that once had dozens of carriers. A result of that consolidation is complete reliance on less than a dozen foreign carriers to deliver our agricultural and forest products overseas...and with little oversight. The problems are now multi-fold with exporters often unable to get carriers to accept their cargo and then being assessed extra costs (even those declared unreasonable by the Federal Maritime Commission (FMC)) for detention and demurrage.

The Hardwood Federation has been actively participating in information gathering, sending on to letters, and virtual meetings with FMC Commissioners. To date over 150 Members of Congress have expressed concern in letters to the FMC, along with 70+ national agricultural and forest products organizations and over 300 agricultural and forest products exporters who reached out to the FMC and Secretaries of Agriculture and Transportation. The following are explanations of the problems and proposals produced by the Agriculture Transportation Coalition:

Opening Ports: Ocean carriers have identified the relatively limited hours of operation of U.S. marine terminals. Key stakeholders – the International Longshore and Warehouse Union (ILWU), terminal operators, port authorities, are in discussions to

achieve additional gate hours at West Coast ports. This may require Congressional and/or Executive Branch intervention, but we believe can be achieved without legislation.

Enforcement of FMC's Detention and Demurrage Rule: After a thorough investigation over several years, the FMC found that ocean carriers and terminal operators were unfairly issuing demurrage penalties. Following notice and hearings, the *Interpretive Rule on Demurrage and Detention Under the Shipping Act* provided guidance to carriers as to "reasonable" practices, conforming to the Shipping Act. However, the carriers and terminals have failed to follow that guidance, routinely imposing the demurrage and detention charges (\$175 to \$750/per container per day) cumulatively hundreds of millions of dollars, even greater than the freight charges), often in circumstances where the delay is beyond the control of the shipper (exporter or importer), and thus unreasonable per the FMC Rule. Many shippers are struggling under millions of dollars of such penalty charges.

When the carrier imposes such a charge, the burden falls on the shipper to submit penalty waiver requests to that carrier, explaining why the charge is unreasonable, even though the relevant information (location of the vessel, vessel schedule and notices, cargo cut times, terminal hours, etc.), is the carrier's own operations information. It is extremely burdensome for the shipper to find the data, carriers make submission of complaints difficult, they are frequently rejected by carriers without explanation. Also, while the shipper must pay the charges immediately, carriers can take months to process the requests for waiver, if they do so at all.

The proposed Amendment to the Shipping Act would require the carriers or terminals to simply confirm, when imposing a detention or demurrage charge, that it complies with the FMC's Rule. Such certification would accompany the charge.

Maintain Carriage of U.S. Exporters: Carriers are too frequently declining to carry US exports, in favor of returning to Asia with empty containers, causing significant lost export sales for US agriculture and forest products producers. Today, a lower percentage of containers returning to Asia are loaded with export cargo, while exporters have more cargo they need to ship. According to carriers, they decline export cargo in order to expedite the return of empty containers back to Asia, to quickly load higher value cargo from factories in Asia for the much more lucrative eastbound voyage back to the US. Thus, too often US agriculture/forest products are left stranded here in the US, unable to be delivered to foreign markets. US agriculture exporters are reporting, on average a loss of 22% of sales. While the ocean carriers are private businesses (as are other regulated industries such as airlines, railroads, etc.), recognizing their essential function for US commerce, they have been regulated, to protect the US shipping public (importers and exporters), since 1916. A purpose of The Ocean Shipping Reform Act of 1998 is set forth in Section 2 (4): "to promote the growth and development of United States exports through competitive and efficient ocean transportation....".

A proposed Amendment would allow: "The Ocean Shipping Reform Act of 1998, Section 10 Prohibited Acts is amended by adding at 46 USC 41104 (a) Common carriers. No common carrier, either alone or in conjunction with any other person, directly or indirectly, may -- unreasonably decline export cargo bookings if such cargo can be safely and timely loaded and carried on vessels scheduled for that cargo's destination.

Violation of this provision shall be subject to penalty as set forth in Section 13 (b)(1) of the Act.”

Forest Products Industry members are reporting severe delays at ports and rising costs due to demurrage and detention. Industry investigations show it appears cargo is being rolled for an average of two to three weeks. One company is reporting a 30% increase in rolled bookings recently. There are loaded containers at facilities waiting to be shipped and members are having difficulty getting bookings up to two (2) months out.

The FMC's hands are somewhat tied and at the mercy of the Shipping Act, but they have, withing their power and scope, initiated Fact Finding No. 29, International Ocean Transportation Supply Chain Engagement, in order to identify operational solutions to cargo delivery system challenges related to Covid-19. More on Fact Finding 29 can be read [here](#). Additionally, shippers are encouraged to request information from carriers on their compliance with FMC's [Interpretive Rule on Demurrage and Detention Under the Shipping Act](#), as well as to send information on specific allegations of violations to boe@fmc.gov.

Issues

Voluntary Carbon Market Bills – HF Pushes for More Markets Language in Markets Bills

The hardwood industry is very knowledgeable of the important role forests and forest products play in the sequestration of atmospheric carbon. The Biden Administration should be commended for publicly recognizing the role forests play in their goal to reduce carbon levels. Major companies have also embraced this concept and have begun striking deals with forest landowners to buy the “carbon credits” (the amount of carbon stored by trees on the land) to offset the carbon emissions of running their operations.

What is missing from most of these deals is establishing that to maximize carbon reduction contributions, the forests in question must be **well managed** and **working**. This includes understanding that harvesting mature trees, providing local sawmills and production facilities with the necessary raw materials, and allowing younger trees to grow and absorb carbon is essential to the process.

At the federal level, there are multiple pieces of legislation either under discussion or in the process of moving through the House and Senate that offer support, both financial and technical, to landowners so that they may participate in these voluntary carbon market opportunities. The Rural Forest Markets Act (RFMA) is one. Unfortunately, the bill does not recognize the importance of maintaining a healthy forest products industry or in protecting local wood products economies.

The Hardwood Federation is working closely with our allies, including the American Forest & Paper Association, the Southeastern Lumber Manufacturers Association, the American Wood Council, and the National Association of State Foresters to amend language in the RFMA to clearly link the benefits of carbon absorbing **working** forests and a strong forest products market to supporting local loggers, truck drivers, sawmills and manufacturers; maintaining rural economies; and the benefits of carbon sequestration in finished wood products. In short, programs that may be interpreted as paying people to simply NOT cut down trees is short sighted in terms of forest health, strong rural economies and reaching carbon reduction goals.

We have received positive response to recommended changes to the Rural Forest Markets Act from the offices of Senate Agriculture Chair Debbie Stabenow (D-MI)'s office and Ranking Member John Boozman (R-AK). We have also reached out and discussed our concerns with sponsors of the companion bill in the House. While we have received positive feedback so far, we will not stop outreach activities until our recommended language is formally approved and moves forward.

Logger Relief – Long Awaited USDA Payments to Move within 60 Days

In March, the U.S. Department of Agriculture (USDA) announced \$6 billion in available funds through Pandemic Assistance to support a number of new programs or to modify existing efforts. On June 15th USDA Secretary Tom Vilsack announced additional aid to agricultural producers and businesses that includes “\$200 million: Small, family-owned timber harvesting and hauling businesses” and is planned for implementation within 60 days, which will be used to address a number of gaps and disparities in the previous rounds of aid.

Said Secretary Vilsack, “USDA is honoring its commitment to get financial assistance to producers and critical agricultural businesses, especially those left out or underserved by previous COVID aid. These investments through USDA Pandemic Assistance will help our food, agriculture and forestry sectors get back on track and plan for the future. Since January, USDA has provided more than \$11 billion of assistance directly to producers and food and agriculture business.”

Highway Bill Reauthorization – Several Developments in the Important Bill

The last couple of weeks have been action packed on the transportation issue front. On June 10, the House Transportation and Infrastructure Committee approved a \$547 billion bill to reauthorize our nation's surface transportation programs that support roads, bridges, rail and other critical infrastructure. Then late last week, the Senate Commerce Committee approved its portion of the highway bill package—a \$78 billion measure that features significant investments in multimodal and freight transportation as well as spending in the area of highway safety. Several committees will have a hand at shaping the final package in the Senate and the Commerce Committee was the second in line in the upper chamber to finish its work on the bill.

A couple developments are worth noting. One, there is a provision that found its way into the House Transportation and Infrastructure Committee-passed bill that would allow for a 10 percent per axle gross vehicle weight tolerance on federal interstates for trucks carrying “dry bulk goods.” On its face, that would not appear to include the forest products sector, but the language in the provision is sufficiently vague that our trucks may qualify. There is an effort underway to clarify that trucks hauling logs, chips, biomass and forest products are eligible for this weight tolerance which would deliver considerable efficiencies in our sector's truck transportation supply chain.

The other positive development occurred during the Senate Commerce Committee's markup last week. Senator Todd Young (R-IN) offered an amendment to the committee bill that establishes a pilot program for young truck drivers. Modeled after the DRIVE Safe Act, the pilot will allow young drivers (between 18-21 years old) to operate trucks interstate after completing rigorous operational and safety training. Currently, younger drivers may drive all day every day within a state's borders but may not cross state lines. For the last few years, the DRIVE Safe Act has been a priority of truck-dependent industries as a way of attracting younger drivers to the profession.

One item that did not make it into either the House or Senate highway reauthorization bills yet is the North Carolina state road vehicle weight limit grandfathering clause. Currently in North Carolina, several state roads are slated to become federal interstates in the near future. Right now, the maximum gross vehicle weight on North Carolina state roads is 90,000 pounds for trucks carrying logs and forest products. Once those roads convert to interstates, the weight limit would decrease to 80,000 pounds unless the 90,000 pound standard is grandfathered. To that end, Rep. G.K. Butterfield (D-NC-1) is working with House leadership on amendment language that would address this issue. We will keep you apprised of progress.

HAULS Act – HF in Support of Amendment to the Surface Transportation Act

Additionally, on the Transportation front, the Hardwood Federation signed on to a letter in support of a HAULS Act amendment to the 2021 Surface Transportation Investment Act that was sent to the Senate Commerce Committee. As a reminder the Haulers of Agriculture and Livestock Safety (HAULS) Act of 2021 is bi-partisan language (S.792) from Senators Deb. Fischer (R-NE) and John Tester (D-MT) that modernizes the agriculture exemption to the hours-of-service rules and provides much needed regulatory relief for farmers, ranchers, and agricultural haulers. This is accomplished in three proposed changes including:

- eliminating the “planting and harvesting periods” requirements to ensure uniformity across the country.
- providing a 150-air-miles exemption from hours-of-service regulations on the backend of hauls. This builds on the current exemption for the beginning of hauls at the “source” and simply would add the term “destination.” The same concerns that exist at the start of the haul – navigating minimally maintained rural roads, allowing extra time to ensure livestock safety, for example – exist at the end of the haul.
- updating of the definition of an agricultural commodity for purposes of determining eligible freight for the agricultural exemption. The bill’s proposed definition “appropriately covers current agricultural products and allows for continued evolution of any agricultural commodities in the future,” according to the groups.

OSHA – Emergency Temporary Standard Finally Released, But Only Tailored to Healthcare Industry

HF has been warning for some time now that OSHA would release a Covid-19 Emergency Temporary Standard (ETS) – and they did, but it was a very narrow guidance tailored only to the healthcare industry. Manufacturing and general industry will NOT be covered, so you may breathe a sigh of covid-free relief.

Happening in the Hardwood World

Yes, the Lumber Shortage is Real

Despite the claims of TikTok and conspiracy theorists, YES, there is indeed a lumber shortage in the United States – mostly due to the pandemic – just as there is a shortage of many commodities. VERIFY covered some of the background and interesting details, speaking with the NAHB, Judd Johnson of Hardwood Market report, and Klutz Lumber Co., in a recent article you may [find here](#).

Endowment Partners with USDA FPL for Nanocellulosic Grants

Got that headline?? Well, the U.S. Endowment for Forestry and Communities (Endowment) has collaborated with the USDA Forest Service Forest Products Lab in granting \$2.4 million in grants further the study and use of nanocellulosic materials. To read more about who received

the grants and the exciting developments being explored in this renewable commercial material
please [click here](#).