

COVID-19: IMPACTS TO TRANSPORTATION & LOGISTICS

Date: 23 March 2020

U.S. Maritime and Public Policy and Law Alert

By: Darrell L. Conner, Mark Ruge, Elle M. Stuart, Brody Garland

As coronavirus (COVID-19) continues to extend its global reach, the impact is being absorbed in every corner of the economy, and the global supply chain is no exception. With marked declines in manufacturing, exports, and overall global commerce, the transportation and logistics network is being tested. While there are hopeful developments to point to at the epicenter of the outbreak, the global economy still has many challenges ahead. The onus is on the U.S. Congress to stabilize the economy, secure the global supply chain, and mitigate the damage to the most affected industries.

The first such effort, the Coronavirus Preparedness and Response Supplemental Appropriations Act, provided \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak. The full text can be viewed [here](#). More detailed K&L Gates analysis is available [here](#).

The second relief bill, the Families First Coronavirus Response Act, provides paid sick leave and free coronavirus testing, expands food assistance and unemployment benefits, and requires employers to provide additional protections for health care workers. The full text, which was detailed in a previous K&L Gates alert, can be viewed [here](#).

The Senate continues to debate the specifics of a third stimulus package, with procedural votes scheduled for Monday afternoon. The \$1.6 trillion package is expected to include direct payments to individual taxpayers, \$300 billion for a small business interruption loan program, \$58 billion for the airline industry, and \$150 billion for other distressed sectors. The House will remain in recess until the Senate clears the bill.

In addition to legislative action, we are tracking the following regulatory and industry developments related to transportation and logistics:

U.S. Coast Guard

Vessels destined for a U.S. port are required to report any sick crew members to the Centers for Disease Control and Prevention (CDC) and the Coast Guard Captain of the Port (COTP) 15 days prior to arrival. Non-passenger commercial vessels will be permitted to enter the U.S. and conduct normal operations, provided that crewmembers remain aboard the vessel, except to conduct specific activities directly related to vessel cargo or provisioning operations. The latest USCG updates can be viewed [here](#).

Blanked Sailings/Trans-Pacific Trade

Ocean carriers have been forced to cancel services (blanked sailings) to and from China and the United States. The Federal Maritime Commission (FMC), the federal agency responsible for regulating the nation's international ocean transportation, has been monitoring levels of blanked sailings and conferring with ocean carrier representatives about levels of service and the potential resumption of normal trade. Reports have indicated that

U.S. retailers are running low on imported goods, manufacturers are suffering depletion of imported component parts necessary for production, and exporters are facing logistical challenges exporting agricultural commodities. Information provided from shipping lines involved in the trans-Pacific trades indicate that cargo levels and services are resuming to pre-coronavirus levels.

Detention and Demurrage

A coalition of more than 65 groups representing shippers, transportation intermediaries, and trucking interests have written to the FMC and Congress calling on the Commission to adopt its interpretive rule on detention and demurrage to prevent further disruption from the coronavirus. The FMC's proposed interpretive rule, which provides guidance for appropriate charging of detention and demurrage fees, would ensure that charges would not be applied unless it was possible for a container to be returned or be available for collection.

Ports/Logistics

Despite heightened safety precautions and shelter in place orders, port and terminal operations have seen minimal disruptions, with affected areas deeming port operations as essential businesses. However, blanked sailings are expected to cause port disruptions in coming weeks as the deficit of empty containers available for US exports grows. As the supply side of manufacturing improves, US importers and exporters will still have to manage the downstream effects on supply chain providers (stevedores, drivers, ocean carrier crew). Specific port service developments include the following:

- Port of Houston has resumed vessel operations at its container terminals after a 23-hour shutdown caused by a worker who had been at the sites tested positive for COVID-19.
- Two PortMiami terminals scheduled temporary closures because of low import container volume. The South Florida Container Terminal gate at PortMiami will remain closed on March 20.
- Georgia Ports Authority designated space to loaded container storage that will give customers an additional 400,000 TEUs of annual container handling capacity at the Port of Savannah.
- Port of New York and New Jersey is open and operating under normal conditions amid the unfolding health crisis, but has canceled all upcoming public events.
- Port of Oakland and Oakland International Airport will remain operational despite an Alameda County shelter-in-place order. Both facilities are deemed essential services.
- Port of Palm Beach reported Customs and Border Protection has suspended operations at all Trusted Traveler enrollment centers, including the Global Entry center at Port of Palm Beach.
- Port of Redwood City is closing public facilities such as restrooms along the waterfront. Cargo operations are currently still occurring until further notice.
- Port of Stockton has implemented a variety of measures to protect and limit contact and exposure of COVID-19 to its employees, as well as to reduce the risk of disruption to services.
- Port of Virginia is postponing the State of the Port addresses scheduled for April 7–9.

Trucking Industry

The Federal Motor Carrier Safety Administration (FMCSA) issued a national emergency declaration to provide

hours-of-service regulatory relief to commercial vehicle drivers transporting emergency relief in response to the nationwide COVID-19 outbreak. FMCSA's declaration provides for regulatory relief for commercial motor vehicle operations providing direct assistance supporting emergency relief efforts. Additionally, all rest areas and welcome centers were closed statewide in Pennsylvania on March 17. The American Trucking Associations has called on the Department of Transportation (DOT) to issue guidance to states to keep them open for commercial drivers during the crisis and to find alternatives for drivers who need to renew or obtain commercial driver's licensing credentials.

DHS Critical Industry Designation

The Cybersecurity and Infrastructure Security Agency has developed an initial list of "Essential Critical Infrastructure Workers" to help state and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works. The full list can be viewed [here](#).

Department of Defense

Two Navy hospital ships will be part of the Defense Department's response to the coronavirus pandemic, the Pentagon's chief spokesman said. The USNS Comfort and USNS Mercy are being prepared for deployment as needed to assist potentially overwhelmed counties with acute patient care, according to Jonathan Rath Hoffman, Assistant to the Defense Secretary for Public Affairs.

As the crisis continues, representatives from several affected industries have been advocating for direct government intervention. These efforts have included the following:

Domestic Airlines

The U.S. airline industry requested nearly \$60 billion in assistance; including \$25 billion in immediate grant assistance for carriers, \$4 billion for cargo carriers, and \$29 billion in zero-interest loans and guarantees. Airports have requested an additional \$10 billion in support.

Cruise Lines

On March 13, Cruise Lines International Association announced that member companies were voluntarily suspending cruise ship operations from U.S. ports of call for 30 days. The CDC issued a No Sail Order on to all cruise ships that had not voluntarily suspended operations. President Trump has signaled support for the struggling industry, but specifics have not yet surfaced.

Aircraft Manufacturing

Boeing has confirmed that it is seeking \$60 billion in federal help, primarily in loan guarantees for the aerospace industry. The company did not say how much of that assistance it would seek to access itself.

Public Transit

The transit industry is seeking a \$12.9 billion relief package amid plummeting ridership, while Amtrak is reported to be advocating for \$1 billion in supplemental funding through the end of the year. Additionally, the Federal Transit Administration announced that states where the governor has declared a state of emergency, transit

agencies will have the flexibility to use federal formula funds for operating expenses in addition to capital expenses, and that the federal government will pay an 80 percent share instead of its usual 50 percent.

Travel Industry/Private Motorcoaches

The U.S. Travel Association called for \$150 billion in relief for the travel industry; recommending a travel workforce stabilization fund, an emergency liquidity facility for businesses in the travel industry, and changes to Small Business Administration loan programs. The American Bus Association is asking for grants without a match requirement, as well as long-term, zero-interest loans for the bus and travel industries.

Agency Requests

The Trump administration is expected to request more than \$21 million in emergency funding for various DOT programs, as well as nearly \$153 million to support TSA operations. Additionally, the administration will request \$500 million in several types of grants to make up for estimated revenue losses for Amtrak and \$250,000 for Federal Railroad Administration inspection equipment.

KEY CONTACTS



DARRELL L. CONNER
GOVERNMENT AFFAIRS COUNSELOR
WASHINGTON DC
+1.202.661.6220
DARRELL.CONNER@KLGATES.COM



MARK H. RUGE
PARTNER
WASHINGTON DC
+1.202.661.6231
MARK.RUGE@KLGATES.COM



ELLE M. STUART
ASSOCIATE
WASHINGTON DC
+1.202.778.9081
ELLE.STUART@KLGATES.COM



BRODY GARLAND
GOVERNMENT AFFAIRS ANALYST
WASHINGTON DC
+1.202.778.9189
BRODY.GARLAND@KLGATES.COM

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.