Before the

Panel on 21st Century Freight Transportation
Committee on Transportation and Infrastructure
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Hearing on

How Freight Transportation Challenges in Urban Areas Impact the Nation

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Mr. Chairman, thank you for the opportunity to testify on behalf of Evans Delivery Company and the American Trucking Associations. The American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of other trucking groups, industry-related conferences and its 50 affiliated state trucking associations, ATA represents more than 37,000 members covering every type of motor carrier in the United States.

I am Gerry Coyle, Vice President for Environmental and Sustainable Operations at Evans Delivery Company, Inc. Evans Delivery is a Pennsylvania-based national provider of trucking and transportation services with annual revenues in excess of $335 million. The company currently operates approximately 2,000 trucks and transports more than 500,000 intermodal containers, from the Nation's ports and rail facilities, per year.

Condition and Performance of Urban Highways: the Impacts on Freight Transportation

Mr. Chairman, urban areas are critical to the U.S. economy. According to the Census Bureau, 81% of Americans live in urban areas. Approximately 85% of U.S. GDP is generated by large urban areas and over the next 15 years large U.S. cities are projected to account for 10% of worldwide economic growth.[1] While just 27% of road miles are in urban areas, urban roads carry more than two-thirds of vehicle miles, including nearly half of truck travel.[2] Unfortunately, urban area highway systems face significant maintenance and congestion challenges. Seven percent of urban bridges are structurally deficient, while nearly one-quarter are functionally obsolete.[3] In many American cities traffic gridlock is not only frustrating and time-consuming, it is also extremely expensive. The Texas Transportation Institute's *2012 Urban Mobility Report* found that congestion in 498 U.S. cities cost the economy $121 billion in 2011, up from an inflation-adjusted $24 billion in 1982. The report determined that $27 billion of the 2011 costs were borne by the trucking industry, and passed on to customers and, ultimately, consumers.

As you are well aware, Mr. Chairman, the New York City Metropolitan area has some of the worst traffic congestion in the Nation, and New York has ***the*** worst freight congestion. Congestion in the region increases freight transportation costs by more than $2.5 billion annually and slows down the delivery of nearly half a trillion dollars' worth of goods.[4] According to a report just released by the Federal Highway Administration and the American Transportation Research Institute, three of the country's worst freight highway bottlenecks are in the New York area, including the fourth worst bottleneck, I-95 at SR-4 in Fort Lee, NJ.[5] Other bottlenecks in the region include I-278 at the Belt Parkway in Brooklyn and I-495 at Shelter Rock Rd. in Manhasset, NY. Congestion raises the expense of doing business in the region and also imposes significant public health costs due to the air pollution caused by 256 billion gallons of excess fuel consumed by motorists sitting in gridlock.[6]

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[1] McKinsey & Co., *Urban America: U.S. Cities in the Global Economy*. April 2012.
[2] Federal Highway Administration, *2011 Highway Statistics, Table VM-1*.
[3] Federal Highway Administration National Bridge Inventory 2012.
[4] Texas Transportation Institute, *2012 Urban Mobility Report*.
[5] http://atri-online.org/2013/07/08/atri-100-freight-locations/
[6] Texas Transportation Institute, *2012 Urban Mobility Report*.

While MAP-21 requires the U.S. Department of Transportation to identify the most costly highway freight bottlenecks, it does not provide separate funding to eliminate them. We urge you to support a setaside of funds to fix these very costly barriers to efficient freight transportation.

The Impacts of Tolls on Urban Freight Transportation

Mr. Chairman, congestion is not the only contributor to New York's costly and uncompetitive freight transportation system. Tolls may pose an even greater challenge to the efficient movement of freight in the region. In order to understand the impacts of tolls on both travel patterns and the cost of delivering freight, it is important to understand how tolls are treated within the carrier-customer relationship. Shippers generally prefer tolls to be included in the base rate of a trucking company's bid. Any attempt by a carrier to collect tolls after the service is provided is generally met with resistance or a dispute over the verification of charges. For this reason, congestion pricing is not a viable option for influencing truck travel patterns, as discussed below. Furthermore, carriers with significant toll expenses often cannot afford the "float" between payment of toll charges and the time it takes to be reimbursed by customers.[7] Therefore, there is significant incentive for carriers to avoid tolls in order to remain competitive. It is important to note that there is significant competition within the trucking industry, and carriers operate with extremely thin margins – two to three percent on average – making it very difficult to absorb toll costs. Furthermore, with the advent of competitive bidding through so-called E-Bids and Reverse Auctions, the level of competition has increased. The port drayage industry is comprised of many small, local companies competing for this business.

When tolls are unavoidable, or it makes financial sense to use a toll facility, carriers will normally spread these costs throughout their customer base in order to recover the costs. Building toll costs into those individual bids which require the use of routes with tolls will result in higher bids than those offered by competitors who spread the costs out, and is therefore not feasible in most cases. Naturally, this model favors larger companies, while smaller carriers with a more limited customer base have greater difficulty recovering toll costs. This is an important consideration because port drayage in the New York City region is dominated by small operators. In addition, it is noteworthy that the practice of building tolls into the base rate is beginning to change for some industry sectors. In particular, customers utilizing port drayage services in the Northeast have recently asked carriers to include toll charges as a separate line item in their bills of lading. The purpose is to determine how toll rates are affecting the cost of drayage services, and will help shippers to make cost-effective decisions. Naturally those ports which are financially hamstrung by high toll costs will be negatively impacted by this new industry practice.

It is also important to recognize that individual toll facilities do not exist in a vacuum. Because of other recent toll rate increases in the Northeast, by 2015 a trip from Baltimore to New York City will cost a 5-axle truck more than $209 in tolls. To put this into perspective, the tolls could represent more than 20% of the charge to a customer for this move, and would make tolls as a cost component more expensive than the cost of a driver, truck or fuel for this trip. Evans pays

[7] Wood, H.P., *Truck Tolling: Understanding Industry Tradeoffs When Using or Avoiding Toll Facilities*, NCFRP Project 19 & NCHRP Project 19-09, October 2011.

$247 in tolls to haul a container roundtrip between Brooklyn and Philadelphia. These high toll costs – which do not exist anywhere else in the country – will be a serious consideration for businesses who are considering their future plans, including in those states served by the I-95 corridor which do not impose tolls.

The toll burden imposed on trucks in the New York City area is significantly greater than in any other urban region in the country, both in terms of the extent of tolling and the rates imposed. For example, the toll rate for a single crossing by a 5-axle truck on the George Washington Bridge ranges from $45.50 to $75.00, while the Verrazano-Narrows Bridge charges $52.50 to $80.00. These charges represent the highest bridge or tunnel toll in the country. The next highest toll rate for a 5-axle truck is $37.50, for the Delaware River Port Authority Bridges in Philadelphia. By 2015 New York City toll rates will climb even higher, to a maximum single crossing fee of $105 for a 5-axle truck on Port Authority bridges. This represents a 163% increase over four years.

According to a recent study, toll costs for port traffic in New York City represent such a significant portion of the cost of moving freight that tolls distort trucks' route choices, with negative impacts on the region's economic competitiveness and the environment.[8] The authors found that for short-haul trucks serving New York metropolitan area ports, toll costs may represent up to 59% of the total cost of delivery. This is in sharp contrast with the national trucking industry, for which tolls represent just 1% of total average operating costs.

These higher costs put New York ports at a competitive disadvantage relative to other ports such as Norfolk and Baltimore, where the operating costs for trucks were less than half those of trucks serving New York ports. The report concluded that because of these higher costs, freight which would likely have utilized New York's ports – such as goods destined for Upstate New York – were instead shipped through ports requiring a longer drayage haul, increasing fuel use and environmental impacts. While the study did not address the safety consequences of these longer hauls, it is likely that the additional crash exposure does have a negative safety impact. Furthermore, because the vast majority of freight served by the New York ports are destined for or originate from the metropolitan area, these costs increase the price of living and conducting business in the region.

An important finding of the report, and one that should be of interest to the federal government, is that the setting of toll rates in the New York City region does not appear to take transportation network impacts into account. As a result, due consideration is not given to the effects of diversion on routes in either the immediate geographic region or on the highway network outside of the area. Under the National Environmental Policy Act (NEPA) changes to transportation infrastructure that are likely to have a significant impact on traffic patterns are required to undergo a review to determine the environmental, social and economic effects of the project. This does not appear to be the case when it comes to increases in toll rates, even though rate increases can have a significant impact on traffic patterns, as was clearly demonstrated by the recent toll rate hikes in the New York area.

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[8] King, David A., et. al. *Does Road Pricing Affect Port Freight Activity: Recent Evidence from the Port of New York and New Jersey*, April 26, 2013.

Increases in toll rates are particularly troubling when the revenue is used to subsidize projects unrelated to the efficient movement of traffic on the toll facilities. For example, revenue from the recent rate increases on bridges and tunnels controlled by the Port Authority of New York & New Jersey is subsidizing construction of the World Trade Center, airport security measures and the construction of a new Bayonne Bridge with higher clearances for the purpose of accommodating larger ships, among other investments unrelated to the improvement of tolled facilities. The New York Thruway dedicates approximately one-third of its budget to the New York canal system, which artificially inflates toll rates for Thruway customers. Toll rates on the Ohio Turnpike were recently increased in order to subsidize highway projects off the turnpike. These are just a few examples of the abuses endured by toll users who are forced to subsidize programs and projects from which they may not receive a direct benefit.

It is appropriate, therefore, for Congress to consider legislation that addresses the disconnect between toll-setting practices and their impacts on highway systems – and the associated environmental, social and economic effects – that are beyond the jurisdiction of agencies and authorities who determine toll rates. In the last Congress, the "Commuter Protection Act" was introduced in both the House and Senate. This legislation would provide greatly needed oversight for irresponsible tolling authorities, and protect the public from being gouged in order to fund projects and programs that do not benefit toll payers by ensuring that rates comply with the long-established "just and reasonable standard." Those tolling agencies which set "just and reasonable" toll rates would not be affected by the legislation, and have no reason to be concerned with or oppose the bill.

Title 33, Section 508 of the United States Code requires that "Tolls for passage or transit over any bridge…" constructed over navigable waterways "…shall be just and reasonable." This requirement, which was first established in 1906, was amended several times over the years. In 1966, Congress gave the U.S. Department of Transportation (USDOT) the explicit authority to determine whether tolls met the just and reasonable standard, although it was equally clear that the law gave the public the right to challenge the agency's decisions through the judicial process.

In a wide-ranging effort to streamline the federal administrative process, in 1985 Congress removed the USDOT's authority to rule on the just and reasonable standard. While it is clear from the legislative history that Congressional intent was to retain a just and reasonable standard that was challengeable through the court system, the new language did not explicitly create a private right of action which would allow the public to challenge the toll rates in Court. In a 2006 decision by the United States Court of Appeals for the Third Circuit, the Court established that this lack of a specific provision for a private right of action prevents the public from challenging toll rates through the judicial process. As a result, since Congress removed the Federal government from the review process altogether, the Court decision essentially rendered Section 508 moot, despite the fact that Congress clearly intended to retain the just and reasonable standard.

The result of this decision is that toll authorities subject to Section 508 can, and have, set toll rates which generate revenues that are far in excess of what is necessary to maintain and improve the tolled bridges. In some cases, the tolls have become a slush fund for all manner of activities completely unrelated to the bridges themselves, and with little or no benefit to the motorists

paying the tolls. These toll rates clearly violate the just and reasonable standard established by Congress. Yet neither the public nor the federal government has the ability to challenge the rates and enforce federal law. The "Commuter Protection Act" would restore enforcement of the just and reasonable standard.

Congress has a Constitutional obligation to protect interstate commerce. Most of the states that have considered, or are currently considering, Interstate tolls, have suggested that they will charge tolls at their borders or at other locations designed to place much of the financial burden on out-of-state traffic, an act that likely violates the Commerce Clause. In addition, multi-state agencies, such as the PANYNJ, operate with the consent of the federal government and are subject to federal requirements.

Mr. Chairman, we have witnessed a disturbing trend among some tolling authorities. Operating independently, or with the support of, or benign neglect from, state officials, these authorities seem to view their control over the distribution of toll revenue as an opportunity for personal enrichment or accumulation of power. Without federal oversight, such abuses may never be uncovered and cannot be curtailed.

Toll facilities that serve significant volumes of interstate traffic are particularly in need of federal oversight. This is especially true of bridges and tunnels, which normally do not have toll-free alternatives. In these cases, facility users are captured, and the normal free market rules which might otherwise hold toll rates down do not apply. Under these circumstances, one can characterize tolls more as taxes than as user fees, since customers have no choice but to pay the toll. Yet out-of-state travelers have no voice with regard to whether their toll taxes should be raised since they enjoy no political representation. Furthermore, those communities affected by the redistribution of traffic due to toll avoidance currently have no recourse to express their concerns if they live outside of the toll facility's political jurisdiction. A federal presence is required to fill that void and to be the voice of representation for interstate travelers. This is certainly consistent with the Commerce Clause. We encourage Congress to support the "Commuter Protection Act" or other legislation designed to protect the public from unfair toll-setting practices.

Mr. Chairman, one of the congestion relief strategies that have been considered in New York City and other urban areas is congestion pricing. This would entail varying toll rates by either time of day or level of congestion in order to influence either travel mode or travel time. It should go without saying that trucks are the only practical option for freight delivery within urban areas so pricing will not induce modal shifts. Furthermore, in the vast majority of cases, shippers, not trucking companies or drivers, determine pick-up and delivery schedules and, as noted above, carriers have difficulty passing toll costs on to their customers.[9] This applies to ports as well, where operating hours are generally between 6:00 a.m. and 6:00 p.m. These hours prevent drayage trucks from operating at nightand taking advantage of lower toll rates that apply during off-peak periods. Therefore, pricing will not be an effective congestion relief strategy when applied to trucks, and will only serve to increase freight transportation costs, with little benefit.

[9] Holguín-Veras, J. (2010). *The Truth, the Myths and the Possible in Freight Road Pricing in Congested Urban Areas.* Procedia - Social and Behavioral Sciences **2**(3): 6366-6377.

Finally, Mr. Chairman, legislation has been introduced in recent years to protect toll-setting practices that give captive toll payers, i.e. residents or businesses that, due to geographic constraints, are disproportionately impacted by tolls or other transportation fees, from Constitutional challenges. ATA does not necessarily oppose such legislation if applied very narrowly. However, we would oppose measures which define captive toll payers so broadly that it would allow discrimination against interstate commerce in contravention of the Constitution's Dormant Commerce Clause.

ATA recognizes the significant highway investment shortfalls facing transportation agencies, and we have therefore long supported an increase in the federal fuel tax. The fuel tax is a much more efficient and fair funding mechanism than tolls. It would be prudent to review the current federal toll pilot programs to determine whether they should be eliminated. Since tolls on existing Interstates were authorized in 1991, no state has received federal permission to impose tolls on existing lanes (other than HOV lanes). However, this has not prevented states from attempting to use the pilots to impose tolls that are clearly designed to discriminate against interstate commerce or to use toll revenue to subsidize governmental functions that are not directly connected to the facilities proposed for tolling.

Port Clean Truck Programs

A key intermodal trucking issue concerns efforts by a number of ports to implement programs aimed at improving air quality around the port by mandating older truck retirement and incentivizing motor carriers to buy newer equipment with lower emissions. In a few instances, these efforts have also involved efforts by the port to impose new operational and equipment mandates on port trucking.

Of particular concern was a clean truck program initially imposed by the Ports of Los Angeles and Long Beach, which banned older trucks and required truckers to sign concession contracts mandating financial data disclosure, maintenance and repair programs subject to port approval, off street parking and placard displays. In addition, the Port of LA program also banned independent owner operator (IOO) drivers and required motor carriers to only use employee drivers for container freight transport. The Port's inclusion of the IOO ban in its clean truck program was supported by the International Brotherhood of Teamsters to facilitate port driver unionization, which otherwise could not be accomplished if drivers were classified as IOOs. The Long Beach program had no IOO ban and the port modified its clean truck operational requirements, which removed it from the federal preemption litigation challenge discussed below.

In an opinion handed down June 13, 2013, the U.S. Supreme Court, in a unanimous opinion, supported the American Trucking Associations' position and ruled that the Port of LA's concession contract mandating parking restrictions and truck placard display were federally preempted. At issue were provisions in the Federal Aviation Administration Authorization Act (F4A) that prohibit the enforcement of any state or local "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The question before the Supreme Court was whether certain provisions of the Port's concession agreement that indisputedly "related to a price, route, or service" of motor carriers nevertheless

escaped federal preemption because the Port asserted that it imposed these requirements acting as a "market participant" to serve its "business interest" in expanding the Port, rather than in an effort to regulate the motor carrier drayage market.

In an opinion authored by Justice Kagan, a unanimous Supreme Court rejected the Port's "market participation" contention. The Court concluded that, whatever the Port's asserted motivation, the concession agreement amounted to "classic regulatory authority" and thus fell within the scope of the F4A's preemption provision. The court further observed that the concession agreement, while technically a contract between the Port and trucking companies, was not the "result merely of the parties' voluntary commitments." Rather, the Port compelled trucking companies to enter into the contract as a condition of access to the Port, by "wielding coercive power over private parties, backed by the threat of criminal punishment." By imposing the concession agreement through coercion rather than "ordinary bargaining," the court ruled that Los Angeles was "performing its prototypical regulatory role."

Earlier in the litigation process, the US Court of Appeals' 9th Circuit had ruled that the Port's concession contract requirement banning independent owner operator (IOO) port drivers and requiring that all drivers be motor carrier employees was preempted under F4A.

It is important to note that the ATA litigation did not at any time challenge the ports' ability to impose clean truck program mandates. Indeed, the 80% emission reduction goals of the ports' clean truck program were reached ahead of schedule and 10,000 EPA compliant 2007 or later model year trucks were financed primarily by over $1.2 billion in private sector investment.

It is also important to note that ATA supported the Port Authority of New York and New Jersey's (PANYNJ's) Clean Trucks Program and was a regular participant in the port's clean truck stakeholder working group. The program, which does not follow or include the LA-style command and control model, was initiated in March 2010 and provides grant money and low-interest loans to eligible port truck drivers to purchase new environmentally friendly trucks and includes a truck phase-out plan that prevents older trucks from calling on port terminals beginning on January 1, 2011 and bans all pre-2007 trucks on port property by 2017.

Other U.S. container ports, including Seattle, Tacoma, Virginia, Charleston, San Diego and Massachusetts, have all instituted various types of clean truck programs and, like PANYNJ, did not follow the LA port program model. In addition, a cooperative clean truck initiative has been successfully established by the U.S. Environmental Protection Agency (EPA). On June 28, 2011, EPA, joined by the Coalition for Responsible Transportation and the Environmental Defense Fund, announced that it is launching a new port drayage truck initiative under the SmartWay Transport Partnership. Because many of the trucks that service ports have traditionally been older models which generate higher emission levels than today's EPA compliant trucks, the SmartWay port initiative was created to provide technical assistance, emission assessment tools and partnership recognition to port truck companies that commit to clean up their trucks.

Under the SmartWay dray truck initiative, carriers sign an agreement with EPA to track and reduce PM 2.5 emissions by 50 percent and nitrogen oxides (NOx) emissions by 25 percent below the industry sector average over a three year period. In addition, SmartWay dray shipper

partners will commit to use the cleaner trucks to haul 75 percent or more of port freight. Charter shipper partners in the program include Best Buy, The Home Depot, Hewlett Packard, JC Penney, Lowe's, Nike, Target, and Walmart. Additionally, SmartWay provides special recognition to shippers -- many of which are already SmartWay partners -- for using cleaner trucks, thereby increasing the demand for cleaner trucks at ports. Through this initiative and with the full cooperation and support of the port trucking community, the SmartWay Dray Truck Initiative will help ports to continue to contribute to their local economies while protecting air quality, the environment and public health.

Truck Driver Classification

Efforts at the state level to effectively ban independent owner operators could also have a significant impact on the movement of freight across the country. For example, in the Northeast, the New Jersey legislature recently passed a bill that would Presume that all drayage truck operators and parcel delivery operators contracted to motor carriers are employees unless the motor carrier can prove otherwise by meeting a three-prong test that would be virtually impossible to meet. Governor Christie is expected to veto the legislation, which the trucking industry believes is an unwarranted attack on individual entrepreneurs and upends New Jersey's longstanding recognition of the unique characteristics of independent contractors in trucking. By contrast, in New York, compromise legislation allowing independent contractors to continue to operate was recently adopted, and in Connecticut, legislation supportive of independent contractors was passed unanimously.

To understand the trucking industry's opposition to mandating employee drivers, it is necessary to first understand the role of the independent owner operator driver. IOOs have long been relied on by trucking companies to meet fluctuations in freight demand and provide needed power unit equipment for freight transport. This is particularly true in the intermodal port trucking sector, which is noted for its "peak and off peak" cargo volume fluctuations. As a result, in most intermodal port locations IOOs often make up almost 90% of the driver community.

For owner-operators, independent contracting provides numerous business advantages. First, it provides a unique opportunity for individuals to begin their own business. Start-up costs are comparatively modest and motivated individuals can quickly have their businesses up and running. In addition, since IOOs own their own trucks, during slack non-peak times they are able to move to other non-port sectors where freight traffic is not as cyclical, i.e. they can continue to generate revenues for their business.

Particularly important to efforts to mandate employee drivers in the port sector is the fact that owner-operators like their independent status and want to continue as IOOs – not employees. Being able to run their own business, control their own finances, work the hours and days they choose, select the type of equipment they operate, and otherwise control their work environment are among the many reasons most drivers choose to become independent contractors.

Given the clear federal preemption upholding by a unanimous Supreme Court discussed above, we believe any state law that imposes a restrictive port driver mandate would likely be overturned as a violation of the routes, rates and services doctrine.

Intermodal Chassis Ownership and Deployment

The chassis (the metal trailer frames with tires, brakes and lights that are designed for intermodal over-the-road transportation of standard-sized international shipping containers) as an intermodal utility is essential to the movement of freight supporting U.S. global container commerce. Since the introduction in 1956 of containerized intermodal shipping in the United States, foreign-based ocean carriers providing regularly scheduled liner service have generally provided chassis for importers and exporters and their motor carrier transporters that pick up and deliver container cargo at ports and inland intermodal terminals. This U.S. model is unique in that the ocean carriers - not motor carriers, terminals or shippers, as is the norm in the rest of the world - were the primary suppliers of chassis.

Beginning in 2009/2010, however, several ocean carriers announced that, as of a date certain they would no longer furnish chassis for cargo shipments. The decision to leave a business they had long dominated was apparently made because ocean carriers were already spending millions of dollars a year on chassis supply and maintenance (without gaining a competitive edge in the marketplace) and with the new responsibility requirements of Roadability regulatory mandates (discussed below) costs were expected to increase even further.

The first visible implementation of these announcements occurred in the New York-New Jersey Port complex, when the largest ocean carrier, Maersk, split off its chassis operation and took the unprecedented step of charging motor carriers a daily rental fee for chassis use. Thereafter, other ocean carriers began issuing notices advising motor carriers that they had sold their chassis and henceforth motor carriers should use chassis provided by the specific purchaser. Following initial concerns expressed by truckers concerning rental fee payments and reimbursements, the Maersk daily rental rollout moved forward with widespread acceptance by the trucking sector. Other providers have followed Maersk's example, although significant differences exist.

To proactively address the otherwise limited options available to motor carriers in the emerging chassis supply model, the North America Chassis Pool Cooperative, LLC (NACPC) was incorporated on October 3rd, 2012. The Company, which was formed by a group of eleven U.S. motor carriers, received approval from the U.S. Surface Transportation Board (STB) on January 22nd, 2013 to commence operations as a joint venture chassis pool cooperative. With its STB authority NACPC has begun to acquire or lease intermodal chassis from ocean carriers and chassis leasing companies, and add these chassis into various existing chassis pools in the U.S. NACPC's mission is to ensure an adequate supply of modern chassis for the U.S. intermodal container network and transparent terms of use that will benefit all users.

An important objective of NACPC is to preserve the existing "gray pool" low cost chassis pool model previously established by the ocean carriers under their Federal Maritime Commission approved agreement. Shippers, ocean carriers, railroads and motor carriers all have benefited from this initiative, which included pool management services that are assessed on an "at cost" pass-through basis and serve to moderate the overall cost of containerized freight transport.

Daily chassis rate competition can be sustained by ensuring that motor carriers at all times have the ability to select their chassis provider and that the transfer of the chassis fleet from one mode to another is accomplished in a manner that provides fair treatment for all stakeholders in the container transport sector. Efforts are now underway to gain federal oversight and involvement in the new chassis ownership and deployment model.

Port Access Inefficiencies

As you probably know, container terminals at the Port of New York and New Jersey have recently been experiencing worse than usual truck lines and cargo delays. Cargo backlogs, heavy ship traffic, summer longshoreman labor shortages and data collection software system problems have combined to overwhelm marine terminals. Trucks have had to wait for hours in two-mile long lines outside some terminals, incurring extra costs such as additional daily chassis rental fees, per-diem payments on containers they have been unable to return to terminals, and reduced productivity by drivers who bump up against the new hours of service regulations.

Similar gate-related delays plague other ports around the country. While ports and their stakeholders continue to grapple with delays "inside the gate," as you heard in previous ATA testimony before this Panel, congestion outside the gate on highway intermodal connectors exacerbates transportation flows around America's vital port network, and must be addressed as well.

Another barrier to the efficient movement of intermodal freight has to do with the condition and safety of chassis. In 2005, SAFETEA-LU established a statutory framework requiring intermodal chassis providers to ensure that their equipment was in a safe "roadable" condition before it is used for transport.
Unfortunately, implementation of the law by the Federal Motor Carrier Safety Administration has been slow, and overall compliance with the program's key legal mandates has not yet reached a level where the chassis that are moving on the highway system can be considered to be systematically maintained and repaired, and are in a roadable condition, as the law requires. The lack of roadable equipment slows down the movement of intermodal freight when equipment is taken out of service or drivers are forced to select new equipment when they fail a pre-trip inspection. While the trucking industry will continue to work on gaining the regulatory changes or enforcement action necessary to comply with the law, a lack of measurable progress may require Congressional oversight.

Mr. Chairman, thank you once more for the opportunity to testify. ATA looks forward to working with the Committee to craft a transportation reauthorization bill that addresses urban freight transportation challenges.