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Commodity Procurement Policy & Analysis Division
Farm Service Agency
U.S. Department of Agriculture
1400 Independence Avenue, SW, Rm. 5755-S
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Attn: Richard Chavez

Re: Notice of Proposed Rule re Procurement of Commodities for Foreign
Donation, RIN 0560-AH39, 70 Fed. Reg. 74,717 (Dec. 16, 2005)

Dear Mr. Chavez:

On behalf of our client, Liberty Maritime Corporation, we hereby request that the close of the public comment period for the above-referenced notice (the "NPRM") be extended for 30 days until February 16, 2006.

Liberty Maritime Corporation is the operator of U.S.-flag and foreign-flag vessels principally engaged in the transportation of agricultural commodities procured in accordance with rules that would be amended by the NPRM. The NPRM proposes to modify significantly a rule governing the methodology for the procurement of commodities and, in effect, ocean transportation services. Thus, the rule will have a significant impact on Liberty Maritime Corporation and other ocean carriers as well as a host of others involved in USDA's procurement of commodities.

The NPRM proposes to modify significantly a rule that has been in effect in large part since 1979. In and of itself, the modification of a rule that has been in effect for over 25 years should be undertaken deliberately and with careful consideration of the consequences and effects. On this basis alone, we believe that an extension of the public comment period is justified.

In addition, the affected regulation is only a piece in a much broader and complicated mosaic of statutes and regulations. Most of the underlying food-aid programs have been in existence for more than 50 years. There are also overlapping laws and regulations more directly affecting ocean transportation providers. Some of those considerations emanate from laws not administered by USDA. We urge USDA to pause to be sure that as many complications as possible are considered.

For this and other reasons, the rule being amended has in the past had its share of controversies. The concept of "lowest landed cost" in the current rule, for example, was the subject of litigation. See *City of Milwaukee v. Yeutter*, 877 F.2d 540 (7th Circuit 1989), cert. denied 493 U.S. 976 (1989). We respectfully urge USDA to extend the comment period to help ensure adequate and informed public comment that will ultimately benefit the rule-making process.

At the same time, the NPRM expresses no urgency. There is no Congressionally mandated deadline to prompt the NPRM. Additional time should be provided to the affected public to comment given the magnitude of the rule and the lack of time pressure.

Thank you for your consideration of this request.

Very truly yours,



Constantine G. Papavizas
Counsel to Liberty Maritime Corporation