

Federal Maritime Commission
Attn: Rachel Dickon, Commission Secretary
secretary@fmc.gov sent via email

Re: SUPPORT for Interpretive Rule on Detention and Demurrage under the Shipping Act
Docket no. 19-05

Honorable Commissioners:

When the practice of charging detention and demurrage started in the 1960's it was to incentivize the efficient movement of cargo and to discourage containers sitting on marine terminals and rail yards for long periods of time. Shippers would occasionally use ocean containers as "free storage". Over the past 40 years with the advances of technology and growth, consignees no longer use ocean shipping containers for storage (warehousing).

However, exorbitant detention and demurrage fees are assessed, unfairly, against motor carriers and shippers. The motor carrier community, as well as the general shipping community, has growing concerns about abuses in the imposition of these fees in today's market. The unfair and unreasonable assessment of detention and demurrage fees pose a considerable financial burden on the intermodal industry, as well as the overall free market community. These fees force motor carriers and their customers to pay hefty penalties, and, to make matters even worse, assume the costly administrative role in an unfair dispute resolution process.

According to the United Nations conference on Trade and Development (<https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1959>) "during the last few years free time periods have been reduced and tariffs for demurrage and detention charges have been increased considerably on a global level. There are indications that shipping lines abuse the charging of demurrage and detention to maximize profits".

Drayage carriers and customers are being held responsible for delays that are a direct result of congestion and inefficiency at marine terminals, depots, and rail facilities. These situations are completely beyond the control of the drayage carrier. Under the current system the marine terminals, rail facilities, and ocean carriers have no incentive to improve service, increase hours of operations, increase staffing, or provide better equipment since they reap the benefit of these fees.

The proposed revisions to the Interpretive Rule on Detention and Demurrage must be made:

- Cargo Availability must be visible on a single web site (it can be per geographic area). This will enhance efficiencies and timely pickup. Free time must be tied to the actual cargo availability and not simply tied to the vessel data which is not a reliable source of real "availability" of the cargo container. Most facilities are not 24/7 and certainly the steamship lines are not currently staffed to handle problems that arise. When circumstances occur, not caused by the drayage carrier, free time must be extended. Motor carriers cannot control closed-yard locations, skeleton staffing due to holidays or PTO time, weather issues, unavailable appointments, congestion, or any other delay outside of its control.
- Notices must be timely and readily accessible to the contracting party and have information as to when and where the cargo may be retrieved and where the container must be returned.
- A dispute resolution must be established that is fair and equitable to all the parties. No party should be bogged down with paperwork. During a dispute other cargo should be allowed to continue with its normal flow. Standardization of rules is necessary.
- Demurrage and detention must be billed in accordance with the marine terminal, depot and rail facility tariffs. Ocean carriers must be required to use contractual relationships rather than asset ownership. Ocean carriers should bill their customers directly since they are the ones that negotiate the terms of the contract.



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- Detention for empty returns must be reconsidered when there are delays in cargo pickup.

Thank you for giving us the opportunity to express our thoughts and opinions on these very important topics that will help improve the flow of ocean containers throughout our nation. Our economy depends on it!

Respectfully,

Robert Leef
Senior Vice President – Intermodal Operations
ContainerPort Group, Inc.