

**From:** [Carter, Kennon - EMO Trans Atlanta](#)  
**To:** [Secretary](#)  
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**Attachments:** [image003.png](#)  
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To whom it may concern,

First I want to thank the FMC for taking time to review such a divisive issue as demurrage and detention. I recognize and support the ocean carriers / rail road intent on detention and demurrage is to incentivize customer to pick up cargo. However the practice of billing these charges when cargo is not available should be deemed an unfair practice. Our company paid an estimated \$ 50,000 in charges last year with the LA port congestion for demurrage / detention for containers we were not even able to collect from the pier. To ask the forwarding community to pay the price for operational issues of ports and carriers must stop. The forwarding community is not asking to not pay when we are the obvious result of the demurrage and detention but we are asking for fair treatment in the practice.

In order to deem what is fair , first we must define what deems cargo available . My opinion is below:

- 1) Off the vessel
- 2) Assigned spot in terminal that can be accessed for pick up
- 3) Appointments are available where necessary
- 4) Chassis must be available
- 5) No government holds ( if a government hold is placed the lines should be allowed to set an extension of 5 days free time. All government holds should be released in 5 days and if not then usually it is for reasons caused by the importer. The lines should not be responsible in these cases)

The free time clock should only start when the terminal issues a notice of cargo availability . Free time should start the day after issuance of this notice. Notices should be sent via email to the forwarder.

As far as the amounts for demurrage and detention. There should be a cap of these charges which should be the amount of the market rates of the equipment the cargo is loaded. Many times bills have been sent for excessive amounts of detention and demurrage and several weeks of mitigating these charges is frustrating and abstract. The forwarder is at the mercy of the carrier to either mitigate or not and mitigation amounts most of the time vary.

Which brings me to my final point, the FMC should apply guidelines on the amount of time steamship lines have to address these disputes. Again weeks can go by before you know what the carrier will do if anything and we are forced to pay the detention /demurrage to remove the container from the terminal. Once the lines have the funds this magnifies the problems in the dispute of the charges, as carriers are less likely to validate a dispute. It really is a point of cargo being held for ransom. You either pay charges you don't agree with to get the container or you don't and accrue even more charges you do not agree with and still have to pay them to get the container.

Thank you to Commissioner Dye and the rest of the team for taking our comments into consideration. I look forward to the commission's final decision on the NPRM .

Best Regards,  
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