

February 27, 2017

Ms. Rachel E. Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, DC 20573-0001

RE: Petition of the Coalition for Fair Port Practices for Rulemaking [Petition No. P4-16]

Dear Assistant Secretary Dickon:

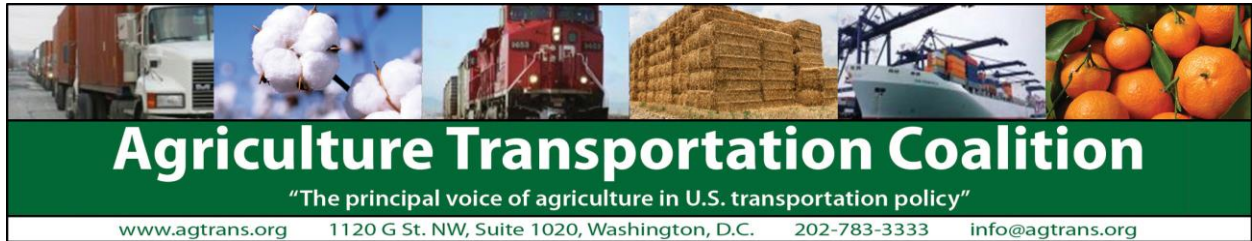
The Agriculture & Commodities Transportation Coalition is please respond to the Federal Maritime Commission (FMC) *Federal Register* notice published on December 28, 2016 concerning a petition for rulemaking from the Coalition for Fair Port Practices. The Agriculture & Commodities Transportation Coalition fully support/s the policy statement requested by the Coalition which would help bring about more reasonable demurrage and detention practices for cargo moving through our nation's seaports. We urge the FMC to begin a formal rulemaking on this matter as soon as possible.

The Agriculture Transportation Coalition (AgTC) represents the interests of agriculture, forest products and commodities exporters nationwide. We have been identified by a leading transportation and logistics publication as "the principal voice of agricultural exporters in US transportation policy."

The AgTC's membership includes companies that represent virtually all containerized and many bulk products exported from the United States. These products are grown, raised, processed, packaged, manufactured and shipped from all regions of the U.S., to all markets worldwide.

Our members have experienced repeated incidents of severe congestion at container terminals in U.S. ports on both the West Coast and East Coast which have resulted in the inability to deliver our cargo to the ports, or to pick up empty containers, and in exorbitant "per diem" fees from the ocean carriers.

Whether those incidents involved weather, labor contract negotiations, the arrival of very large ships or other disruptions, the port delays were beyond the control of our member companies, the exporters, freight forwarders, and trucking providers. All too frequently shippers and truckers are being charged demurrage and detention penalties for late pickup or return of containers when it is not their fault. If the terminal is closed during normal working hours, or if a container is unavailable for pickup during the free time period due to congestion or other disruption at the port, carriers and terminals should not assess demurrage. The same is true for detention charges when attempts to return an empty container are frustrated. This is an especially pressing problem for exporters who have limited "free time." These are real costs that hurt American businesses and American competitiveness.



The Agriculture & Commodities Transportation Coalition has taken a multi-prong approach for the past several years to create a variety of solutions for this serious issue.

1. Three years ago, AgTC staff, often with AgTC members, met with every one of the FMC Commissioners, urging them to take action, either formally or informally, to press carriers to stop issuing these charges, and to waive those fees already invoiced. We have continued to update the Commissioners on this issue.
2. AgTC intervened on behalf of AgTC members directly with the ocean carriers to get them to waive these charges. We have always preferred to work cooperatively with ocean carriers when possible, as sometimes more can be achieved more quickly. Our personal conversations with senior carrier executives resulted in the waiver of hundreds of thousands of dollars of these demurrage and detention fees assessed against AgTC members.
3. Specific individuals at various carriers who were particularly helpful in gaining waiver of per diem fees, have been publicly recognized at AgTC Annual Meetings in 2015 and 2016.
4. One of the AgTC's initial requests to the Commission three years ago, was the establishment of a special program (under its Bureau of Consumer Affairs and Dispute Resolution Service - CADRS) to receive and act upon Per Diem complaints from shippers, and the assignment of FMC lawyers to pursue resolution and waiver of these fees. This was done.
5. AgTC staff continues to arrange and accompany AgTC members to work sessions with the FMC's CADRS attorneys. Some waivers of previously invoiced fees have been obtained.

We thank the Federal Maritime Commission for considering our views and for working towards a solution which will benefit U.S. exporters of agriculture, forest products, and other commodities.

Respectfully,

Peter Friedmann
Executive Director