

# MARC FISHER

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Federal Maritime Commission  
Office of the Secretary

February 7, 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:

Marc Fisher Footwear is pleased to 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. Marc Fisher Footwear fully supports 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.

In my role as Director of Operations and Logistics, I am responsible to ensure that volume import cargo (ladies and mens fashion footwear) is expedited through LA/LB and NJ/NY terminals and delivered to Customers timely and cost efficiently. We have had and still face many challenges at the piers that are completely outside of our scope of control. LA is ripe with examples, not limited to but including: lack of pier appointments, no locate containers and most importantly, unreasonable terminal charges. Our products are seasonal fashion products, and our customers/retailers are not forgiving when it comes to delays. The pier appointment program does not have enough "timely" appointments and continues to have long waits online for freight. Increased dray costs result since dray carriers can't pull more than 1-2 containers from the pier on a shift (4 years ago they could turn 4+). We are hit with additional fees for: wait time, extended chassis fees and dray charges have doubled for the dray carriers that have managed to stay in business. Terminals have taken terrible advantage in that we used to have 5 days to retrieve a container from the day it was unloaded and "available" to the "last free day" or LFD. Now terminals routinely start counting free days before containers are available, and do not give any consideration if terminal appointments are filled for 2 and 3 consecutive days. They then charge an escalating "per diem" charge for each day that you do not retrieve. This is symptomatic of pier congestion, but has additionally turned into a profit center for these terminals, with no relief in sight. Steamship lines have done little or nothing to assist.

To lend a further example: 6 years ago we could pull a container from the LA pier on average 2-3 business days after a vessel docked at port. We now allow 6 days on average post vessel eta. We can still enjoy the 2-3 days in Port Newark, but once the Bayonne Bridge is fully functioning, it is a matter of time before we re-live the LA congestion nightmare in NJ and I fear

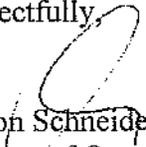
that 6 day discharges and excess terminal handling may be our future and the “new normal” for NY and NJ.

Whether those incidents involved weather, labor contract negotiations, the arrival of very large ships or other disruptions, the port delays were beyond our control. 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. These are real costs that hurt American businesses and American competitiveness.

The Coalition for Fair Port Practices has proposed a policy statement that would help to stop this unfair practice. The FMC has the authority to ensure that demurrage and detention practices are fair and reasonable and it needs to act to address this problem.

The FMC has taken important steps to examine port congestion issues challenging carriers, shippers, terminals and intermediaries. As the next step, we urge you to grant the petition and open a rulemaking on the Coalition’s policy statement to ensure that US imports and exports are not burdened with unfair demurrage and detention charges. Thank you for considering my views.

Respectfully,



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cc: Alain Gervais, COO, Marc Fisher Footwear