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**Bill Mongelluzzo, Senior Editor** | Nov 16, 2020 6:00PM EST



Supply chain stakeholders petitioned the Federal Maritime Commission to temporarily suspend detention and demurrage charges in LA-LB and NY-NJ. Photo credit: Shutterstock.com.

A coalition of truckers, shippers, and customs brokers asked the US Federal Maritime Commission (FMC) Monday to consider an immediate suspension of detention and demurrage charges at the ports of Los Angeles and Long Beach and New York-New Jersey until congestion at the country's two largest gateways dissipates.

"We respectfully ask you to explore all available powers and authority to immediately suspend detention and demurrage charges, which are being unfairly and unreasonably assessed in the ports of Los Angeles and Long Beach, as well as the Port Authority of New York and New Jersey by ocean carriers and marine terminals," the coalition of more than 40 organizations wrote in the letter to the FMC.

In a longer-term action, administrators of the Harbor Trucking Association (HTA) in Southern California, the Agriculture Transportation Coalition, and the Pacific Coast Council of Freight Forwarders and Customs Brokers said they will consider next year calling for an update of the Shipping Act of 1984. Shipper and trucker interests say the act does not reflect the current state of US port operations.

HTA CEO Weston LaBar told a virtual press conference Monday that dramatic action is required immediately to relieve port congestion caused by a four-month-long flood of imports to the United States. The coalition is asking the FMC to temporarily prohibit ocean carriers from imposing demurrage charges for the storage of containers at marine terminals beyond the allotted free time, and the imposition of detention charges for the late return of equipment caused by severe port congestion.



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The coalition letter added that members so far this year “have paid well over \$150 million in unreasonable detention and demurrage charges in the twin Southern California ports and the Port of New York and New Jersey due to the massive congestion created by record-setting volumes, coupled with a shortage of both skilled labor and available chassis.”

“Demurrage charges are out of control,” Peter Friedmann, executive director of the Agriculture Transportation Coalition, said at the press conference. The charges, he said, can wipe out the profits of agricultural exporters, many of which ship low-margin farm goods to their overseas customers.

As a result of port congestion caused by an unprecedented spike in imports over the past four months, there are not enough appointment slots available at marine terminals in Los Angeles-Long Beach for truckers to pick up loaded imports or return empty containers, said Vince Iacopella, executive vice president of growth and strategy at Alba Wheels Up International.

“You shouldn’t pay demurrage because you couldn’t get an appointment in the allotted time,” said Iacopella.

## FMC can use existing authority to suspend charges

Truckers feel confident the FMC can use its existing powers to immediately turn guidelines issued in the commission’s interpretive rulemaking decision earlier this year into rules that would require suspension of detention and demurrage charges in Los Angeles-Long Beach and New York-New Jersey.

“Using their legal powers and authority, the FMC can act quickly,” said LaBar.

FMC commissioner Dan Maffei, in a statement to JOC.com Monday that he said reflects his personal opinion, called for the FMC to investigate reports of charging shippers and truckers for congestion-related issues they did not create.

“... We are hearing reports that some are flouting the FMC’s interpretive rule by threatening high charges for failure to return empty containers on time, even in cases where congestion has made it difficult or impossible to do so,” he said. “The FMC should investigate these reports.”

“This spring, when the FMC unanimously voted to finalize the interpretive rule concerning detention and demurrage charges, I noted that we had made a first step, but should consider further action if that interpretive rule was not sufficient,” Maffei added.

Friedmann noted that issues related to congestion and demurrage are included in filings that ocean carriers have submitted to the FMC. “It’s not a question of whether they have the authority, it’s the will,” he said.

Truckers are frustrated because they have been telling ocean carrier representatives during the past four months of port congestion that they should share advance shipment information with supply chain members, refrain from making last-minute scheduling changes for the return of empty containers, and suspend detention charges for truckers who can not secure appointment slots. Despite the constant admonitions, only one carrier, which he did not identify, has offered to meet with the HTA, LaBar said.

Friedmann added that agricultural shippers have found carriers that empower their local representatives to make decisions regarding operational issues at US ports are the most responsive to the needs of their customers. Local representatives oftentimes agree with their customers that action should be taken, but when they seek permission from their home offices overseas, there is a good chance they will be turned down, Friedmann said.

## Changes to 1984 Shipping Act could be requested

Coalition members are equally optimistic that when the new Biden administration and Congress takes over next year, there is a good chance they will receive a favorable response to a planned effort calling for an update to the 1984 Shipping Act, which was last revised in 1998.

“We wanted to do it this year, but the virus got in the way,” said LaBar.

Coalition members want the act to reflect today’s port environment where fewer carriers now operate in alliances, truckers must make appointments, and digitization allows carriers the opportunity to provide advance shipment information to members of the supply chain.

“We have the ability to do this, if all members of the supply chain agree to do so,” said Iacopella. However, he cautioned that when the government is asked to get involved, there is always a chance of unintended consequences occurring.

“This is a big issue,” he said. “If it can be reached without reopening the Shipping Act, I would prefer that.”

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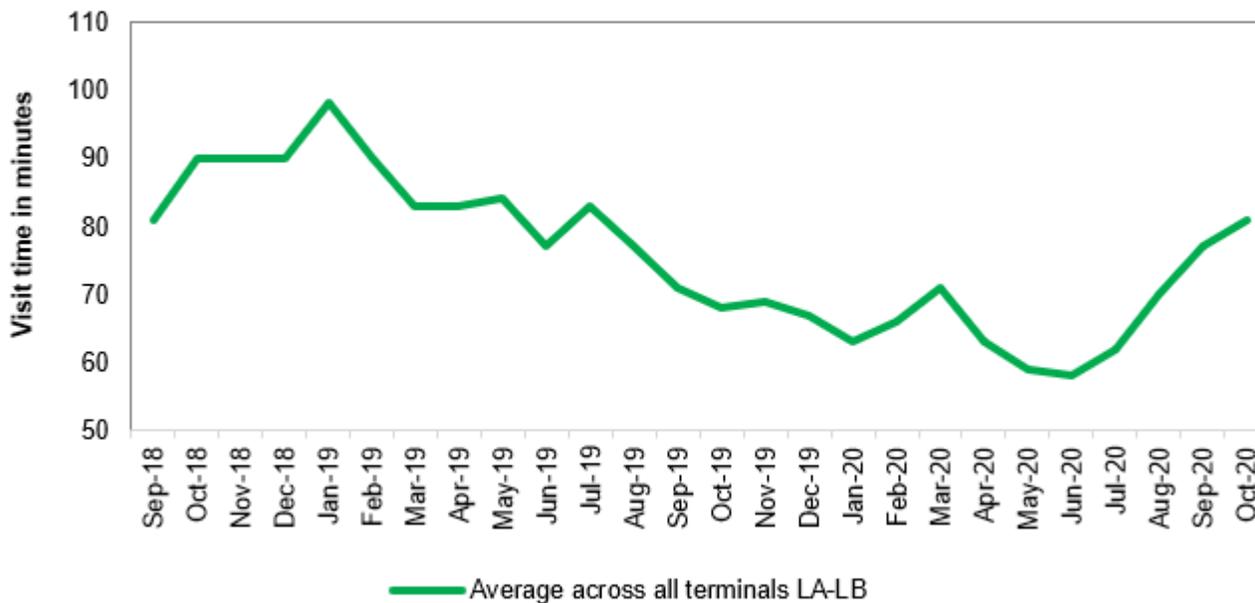
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### Average length of Los Angeles-Long Beach turn times increases

Average truck turn times at Los Angeles-Long Beach marine terminals



Source: Harbor Trucking Association Truck Mobility Data

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