

April 3, 2020

The Honorable Lawrence Kudlow
United States National Economic Council
Washington, D.C.

The Honorable Sonny Perdue
United States Secretary of Agriculture
Washington, D.C.

Dear Mr. Kudlow and Secretary Perdue,

The undersigned organizations, representing virtually every sector in the US food and agriculture supply chain, request your urgent engagement to ensure the continued free movement via shipping containers to international markets of critical food and agricultural products. Specifically, we seek your engagement with the Federal Maritime Commission (FMC) regarding the ongoing unconscionable imposition of millions of dollars of unfair detention and demurrage penalties on US agriculture by ocean carriers and Marine Terminal Operators during the coronavirus crisis. The FMC has developed a Proposed Interpretive Rule to curtail these abuses, published for public comment last summer, and we urge you to work with the FMC to expeditiously adopt the Interpretive Rule as published.

Ocean carriers and terminal operators impose detention and demurrage charges on US agriculture businesses when ocean freight containers cannot be timely returned to, or picked up from, marine terminals within a short “free time” window, even when the delay is caused by the ocean carriers or terminals themselves (such as when the terminal is closed, or the ship is late). An FMC Investigation and Fact Finding report found that such detention and demurrage fees appear to be punitive measures by the ocean carriers, not an incentive to increase container flow. They impose unreasonable costs and significant burdens on the US shipping public, including agriculture and forest products exporters and truckers. These fundamentally unfair fees are frequently exorbitant in nature, even exceeding the negotiated freight rates in some cases, and render US agriculture exports less competitive in the global markets.

Following a three-year investigation and public engagement led by FMC Commissioner Rebecca Dye, the Commission unanimously voted on August 2019 to publish the Interpretive Rule to provide detention and demurrage penalty guidance. The public comment period closed October 31, 2019; and almost all US interests urged the Commission to expeditiously adopt the Interpretive Rule as published. In light of the urgency of this matter, and the challenges faced today by US agriculture exports, we believe six months has been more than sufficient for the Commission to read 104 comments, the overwhelming majority of which support the Rule (45 are virtually identical, supporting the Rule as published.). In addition, last week 67 organizations representing retailers, exporters, truckers, agriculture, etc. urged the Commission to adopt the Rule as published. [View the letter here.](#)

The ongoing injury to US agriculture and forestry industries as a result of these unjustified penalties is very real, especially with the challenges posed by the coronavirus. There is great concern about detention and demurrage fees being assessed when there are equipment issues beyond the control of the shipper or motor carrier as a result of the pandemic.

We thank you for your consideration of our request to engage on behalf of U.S. agriculture and forestry on the immediate need for the Commission to adopt the Proposed Interpretive Rule as published, to provide guidance for when a detention or demurrage charge can or cannot be fairly imposed.

Sincerely,

1. Agriculture Transportation Coalition
2. Agricultural Retailers Association
3. Amcot – America’s Cotton Marketing Cooperatives
4. American Chemistry Council
5. American Cotton Producers
6. American Cotton Shippers Association
7. American Farm Bureau Federation
8. American Feed Industry Association
9. American Frozen Food Institute
10. American Pulse Association – Peas, Dried Beans & Lentils
11. American Seed Trade Association
12. American Soybean Association
13. American Trucking Association
14. Association of Bi State Motor Carriers
15. Association of Food Industries
16. Beer Institute
17. Consumer Brands Association
18. Corn Refiners Association
19. Cotton Growers Warehouse Association
20. Cotton Warehouse Association of America
21. Cottonseed and Feed Association
22. CropLife America
23. Distilled Spirits Council of the United States, Inc.
24. Harbor Trucking Association
25. Idaho Potato Commission
26. Institute of Shortening and Edible Oils
27. International Dairy Foods Association
28. Leather and Hide Council of America
29. Meat Import Council of America
30. National Aquaculture Association
31. National Association of Egg Farmers
32. National Association of Wheat Growers
33. National Cattlemen’s Beef Association
34. National Chicken Council
35. National Corn Growers Association
36. National Cotton Council
37. National Cotton Ginners Association
38. National Cottonseed Products Association
39. National Council of Farmer Cooperatives
40. National Federation of Independent Business
41. National Fisheries Institute
42. National Grain and Feed Association
43. National Hay Association
44. National Milk Producers Federation
45. National Oilseed Processors Association
46. National Onion Association
47. National Pork Producers Council
48. National Sorghum Producers

49. National Turkey Federation
50. North American Export Grain Association
51. North American Meat Institute
52. North American Millers' Association
53. North American Renderers Association
54. Northern Pulse Growers Association
55. Northwest Horticultural Council
56. Oregon Seed Association
57. Pacific Northwest Asia Shippers Association
58. Pet Food Institute
59. Produce Marketing Association
60. Southwest Council of Agribusiness
61. Specialty Crop Trade Council
62. Specialty Soya and Grains Alliance
63. Sweetener Users Association
64. The Fertilizer Institute
65. U.S. Apple Association
66. U.S. Dairy Export Council
67. U.S. Forage Export Council
68. U.S. Meat Export Federation
69. U.S. Pea and Lentil Association
70. United Fresh Produce Association
71. USA Dry Pea and Lentil Council
72. USA Poultry & Egg Export Council
73. USA Rice Federation
74. Waterways Council, Inc.
75. Western Growers Association
76. Western Pulse Growers Association
77. Wine and Spirits Shippers Association
78. Wine Institute
79. World Perspectives, Inc.
80. Worldwide Fresh Shippers Association

CC: Senator Pat Roberts, Chairman, U.S. Senate Committee on Agriculture, Nutrition & Forestry
Senator Debbie Stabenow, Ranking Member, U.S. Senate Committee on Agriculture, Nutrition & Forestry
Representative Collin Peterson, Chairman, House Agriculture Committee
Representative K. Michael Conaway, Ranking Member, House Agriculture Committee