



The Bottom Line

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FINES TO BEGIN FOR CONTAINER BACKLOG

Summary

To ease congestion at the nation's busiest port complex, officials say they will start fining shipping companies whose cargo containers linger for too long at marine terminals.

Background

Initially adopted to incentivize cargo owners in the efficient collection and return of containers, demurrage and detention fees have been the target of significant displeasure in recent years. As a result, the FMC began investigating port demurrage and detention practices in December 2016, responding to a petition following significant port disruption in 2015.

The FMC received more than 110 comments to the petition and held public hearings. On March 5, 2018, the FMC voted to commence a fact-finding regarding demurrage and detention practices, selecting Commissioner Rebecca Dye to lead the study.

Fact Finding #29 issued rules in 2020 that adopt, as the primary principle, the point that when assessing the reasonableness of demurrage and detention practices, the Commission will look to whether they meet their intended purpose as financial incentives to facilitate the rapid and efficient movement of freight.

Current Status

Before the congestion problems started in mid-2020, ships arrived off the coast of the two southern California ports and went straight to berths to offload their containers and get new ones loaded back in their place. Now, the average waiting time for ships to dock at port is about ten days. Once unloaded, many containers will sit at the pier a week or more before beginning the next leg of their journey. Wait times have grown longer for ships to dock and unload cargo at other ports around the country. But, because of their size and importance to the national economy, the problems in Los Angeles and Long Beach have attracted particular attention. About 40% of container traffic entering the United States comes through one of the two southern California ports.

To ease congestion at the nation's busiest port complex, officials said Monday that they would start fining shipping companies whose cargo containers linger for too long at marine terminals. The twin ports of Los Angeles and Long Beach said in a statement that arriving containers scheduled to be moved by trucks would be allowed to stay for nine days before fines start accruing. Containers set to move by rail can remain at the ports for three days. After that, ocean carriers will be charged \$100 per container, increasing in \$100 increments per container per day, the statement said.

The new rules will go into effect on **November 1**.

The policy was developed in coordination with the Biden-Harris Supply Chain Disruptions Task Force, the U.S. Department of Transportation, and multiple supply chain stakeholders. "I support the actions taken by the ports of Los Angeles and Long Beach today to charge ocean carriers for lingering containers on marine terminals.

These actions aim to expedite the movement of goods and reduce congestion in our ports," said John D. Porcari, Port Envoy to the Biden-Harris Supply Chain Disruptions Task Force. "As our economy continues to grow, increased demand and disruptions caused by the pandemic are putting our supply chains to the test. While we've seen new records set in terms of throughput at West Coast ports this year, we need more players throughout the supply chain to keep stepping up. The federal government will continue to bring together private companies and stakeholders from across the supply chain and serve as an honest broker helping to surface solutions like this to address supply chain disruptions."

Impact

"The terminals are running out of space, and this will make room for the containers sitting on those ships at anchor," Port of Long Beach Executive Director Mario Cordero said in the statement. It's the latest step to relieve the logjam of cargo ships that has interrupted the global supply chain. The backlog prompted the Biden administration to allow the port complex to operate 24 hours a day to try to get goods unloaded and out to consumers, a move he called a "potential game-changer." But he admitted, "I say 'potential' because all of these goods won't move by themselves." And in fact, the Port of Los Angeles has remained mostly closed between 3 am and 8 am, despite technically being open 24/7. There aren't enough trucks calling on the port in those hours to make it worth it for its privately owned and operated terminals to stay open around the clock.

While federal port envoy John Porcari said he supports the new charges, they were immediately denounced by importers and shippers. The Retail Industry Leaders Association said shippers "are already moving cargo out of the ports as fast as possible." If fees are passed on to shippers, "there is no incentive for carriers and terminal operators to address the issues which can prevent shippers from accessing their cargo, including the equipment dislocation caused by the challenges of returning empty containers and the availability of chassis." The port charges could also violate federal rules issued in May 2020 designed to resolve longstanding complaints about just these types of fees. The Federal Maritime Commission is currently auditing nine top ocean carriers for compliance with this rule and has warned it "will take appropriate action" if prohibited activities are uncovered.

RESOURCES

[Ports of LA, Long Beach to Fine Firms Over Container Backlog](#) (ABC News)

[Everything You're Waiting For is in These Containers](#) (CNN Business)

[Exclusive: Congested Port of LA Receiving Empty Containers from Gulf, Southeast](#) (American Shipper)

[Ports of Los Angeles and Long Beach to Begin Charging Ocean Carriers for Excessive Container Dwell Times at Terminals](#) (G Captain)

[Importers Could See Increased Costs from Efforts to Break Cargo Bottlenecks](#) (Sandler, Travis & Rosenberg)