

Name: David Cannillo

Date: 4/12/2022

FMC Docket No. 22-04
Comments on Demurrage and Detention Billing Requirements
Advanced Notice Proposed Rulemaking
COMMENTS MUST BE SUBMITTED BY APRIL 16, 2022

A. Scope.

1. Should the Commission include both VOCCs and NVOCCs in a proposed regulation on demurrage and detention billing? Yes
2. Should the Commission include MTOs in a proposed demurrage billing regulation? Yes
3. Should a proposed demurrage billing regulation distinguish between the demurrage MTOs charge to shippers and the demurrage MTOs charge to VOCCs? That is, should the Commission regulate the format in which MTOs bill VOCCs? [Click or tap here to enter text.](#)
4. What percentage of demurrage and detention bills contain inaccurate information, and which information is most often disputed? Outgate and ingate dates are most disputed, followed by rebilling directly to customer per their requests
5. How much does the type of information included on or with demurrage and detention billings vary among common carriers, among marine terminal operators, and between VOCCs and NVOCCs? Some do not have the dispute email listed, breakdown of charges per day (ZIM).

B. Minimum billing information

6. What type of information should be required on billings? [CLICK THE CHECK BOX NEXT TO EACH OPTION BELOW TO INDICATE THE TYPE OF INFO YOU WISH TO SEE INCLUDED]

Should the Commission require certain essential information included on invoices such as:

- a. Bill of lading number
- b. Container number
- c. Billing date
- d. Payment due date
- e. Start/end of free time
- f. Start/end of demurrage/detention/per diem clock
- g. Demurrage/detention/per diem rate schedule
- h. Location of the notice of the charge (i.e., tariff, service contract # & section or MTO schedule)
- i. For import shipments:
 - i. Vessel arrival date
 - ii. Container availability date
- j. For export shipments:
 - i. Earliest return date, including identifying any modifications to the earliest return date

k. Any intervening clock-stopping events, for example:

- i. Unavailability of container
- ii. Unavailability of pickup or return locations
- iii. Unavailability of appointments (where applicable)
- iv. Restrictions on chassis accepted v. Force majeure-related events

l. Please note if any portion of the charge is a pass-through of charges levied by the MTO or Port.

[Click or tap here to enter text.](#)

C. Billing practices.

7. What information or timeframes should be required for VOCC and NVOCC demurrage and detention bills? Should the Commission require different types of information or timeframes? All charges should be billed within 60 days per the UIIA.

8. Do common carriers invoice multiple parties for demurrage and/or detention charges? Not that we know of. If multiple parties are invoiced for charges, should the billing party be required to identify all such parties receiving an invoice for the charges at issue? [Click or tap here to enter text.](#)

9. Should the billing party be required to identify the basis of why the invoiced party is the proper party in interest and therefore liable for the charges? (i.e., as shipper, consignee, beneficial cargo owner, motor carrier or an agent, or as a party acting on behalf of another party pursuant to the common carrier's merchant clause in its bill of lading.) yes

10. Should the Commission, for purposes of clarity and visibility of charges, require MTOs to bill demurrage directly to shippers (rather than billing VOCCs who then bill shippers for demurrage)? [Click or tap here to enter text.](#) In that scenario, MTOs would bill shippers directly for demurrage, and carriers would continue to bill detention to shippers. All demurrage and per diem should be billed directly to the shipper. As the MTO, we should not receive those bills.

11. How long from the point of accrual of a demurrage or detention charge does it typically take to receive a demurrage or detention invoice or billing? Depending on the SSL, MSC takes over 30-60 days to send an invoice. Others take only 2-4 weeks.

12. Should the Commission require demurrage and detention invoices to be issued within 60 days of date when the detention/demurrage/per diem stops accruing? Yes

13. Should the Commission require specific information be included on the invoice regarding how to dispute a charge? If so, what information should be required? For example, should the Commission require invoices to include contact information for disputing charges, identify circumstances for when a charge may be waived, or identify the billing parties' evidentiary requirements sufficient to support a waiver of the charges? Yes, contact information should be listed on all invoices.

14. How long from the point of dismissal of a charge does it typically take to receive a refund? With companies like Evergreen, they hold onto any money and try to refund as little as possible by offsetting newer invoices billed to us. Should the Commission require that refunds of demurrage or detention bills

be issued within a certain time period and what should that timeframe be? Refunds should be issued within 1 week.

15. How would a regulation on demurrage and detention billing requirements impact, conflict with, or preempt any other applicable laws, regulations, or arrangements (such as the UIIA)? [Click or tap here to enter text.](#)

16. Please provide any other views or data you believe would help inform the Commission's decision whether to pursue a proposed regulation on demurrage and detention billing information and practices. It is very costly to pay out demurrage and per diem, as the trucker, we have no control of when containers are emptied and should not be receiving any bills.

Please submit your comments directly to the FMC via email, sent to secretary@fmc.gov. Include in the subject line: **“Docket No. 22–04, Comments on Demurrage and Detention Billing Requirements ANPRM.”** Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments should be submitted by email.

COMMENTS MUST BE SUBMITTED BY APRIL 16, 2022

This form was created by the Association of Bi-State Motor Carriers to facilitate comment submissions. Respondents are instructed to fill in the information as accurately as possible, and submit responses directly to the FMC. Be advised advised that all comments submitted via email are non-confidential and will be made public.