



Date: February 21, 2022

TO: Secretary, Federal Maritime Commission (FMC)

From: Rolando Portal, Sr Director Global Logistics & Trade Compliance

RE: **Docket No. 22-04**, Comments on Demurrage and Detention Billing Requirements ANPRM

Enclosed please find my brief comments on the minimum requirements for common carriers and marine terminal operators in regards to your advance notice of proposed rulemaking, published in the Federal Register on Tuesday, Feb 15th, 2022:

A. Minimum Billing Information

All invoices, regardless from common carriers ("CC") or marine terminal operators ("MTO") should include the following minimum data requirements:

- a. Invoice number and date
- b. Date of issue
- c. Bill of lading
- d. Container/equipment number
- e. Equipment type (size and type)
- f. Port of discharge
- g. Terminal of storage
- h. Trucker who container/equipment was released to
- i. Charge type, with clear and concise specificity
 1. Equipment detention
 2. Demurrage
 3. Other, with specific charge included
 4. Each charge type broken out in invoice
 5. Basis for the charge should include if by tariff, by contract or special provision, or MTO schedule
- j. For Demurrage charges, the following should also be included in invoice:
 1. When container was discharged and made available at terminal
 2. When container was out gated from terminal
- k. For equipment detention, the following should also be included in invoice:
 1. When container was out gated from terminal
 2. When container was in gated back to carrier's possession
- l. Commodity as specified in the bill of lading
- m. Consignee as specified in the bill of lading or the party in interest
- n. Free time period, showing specific date from start to end, highlighted as free time period
- o. Penalty period or period when free time expired, showing from start to end
- p. Rate per day in US dollars, if escalating rate due to extended time period is charged, then the escalating rate should also show in invoice
- q. Total amount due in US dollars
- r. Name and contact person, preferably email, of responsible party to contact in case of dispute or question on the invoice



- s. If the 'clock' for whatever reason was stopped, the invoice should provide this information with a justifiable reason code (i.e., "Stop the clock" provision, weather related, holiday, etc.)

It is strongly recommended that CC and MTOs refrain from using codes or other abbreviations that are difficult to understand or decode. If abbreviations or special codes are used, CC and MTOs should provide a reference table defining codes or abbreviations.

B. Billing Practices

All invoices should adhere to timeliness since often, carriers provide detention and demurrage invoices in excess of reasonable times from the date of occurrence of the charge. The 60-day time period as provided under the UIIA is reasonable and the Commission should strongly adopt, if 30-days seems unreasonable after considering other commenters view on this topic.

C. VOCC, NVOCC and MTOs

Only VOCC and MTOs should be subject to the regulation in the proposed rulemaking. NVOCCs do not contract with MTOs and/or control any assets (i.e., equipment) to be subject to the rule. The Commission should carve out an exception where if NVOCCs control containers, then subject the NVOCCs to the final rule on detention.

D. Other Topics covered in the ANPRM

For transparency and regulatory effect, the Commission should require public disclosure of demurrage rates agreed to by CC and MTOs. This would have the effect of getting better visibility between CC and MTOs and regulate CC from charging above reasonable levels in times when ports are congested (i.e., current times). In addition, if MTOs want to contract directly with beneficial cargo owners (BCO) for port free time, this could perhaps allow for direct relationships between BCOs and MTOs and bring into alignment more efficient relationships between the terminals and the BCOs.