



March 29, 2022

Mr. William Cody
Secretary
Federal Maritime Commission
800 North Capitol St., NW
Washington, D.C. 20573

Transmitted electronically via email to: secretary@fmc.gov.

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

Dear Mr. Cody:

The USA Rice Federation (“USA Rice”) appreciates the opportunity to submit these comments concerning the Federal Maritime Commission’s (“FMC” or “Commission”) advanced notice of proposed rulemaking for Demurrage and Detention Billing Requirements.

USA Rice is the global advocate for all segments of the U.S. rice industry with a mission to promote and protect the livelihood of farmers, millers, merchants, and allied businesses. USA Rice members are active in all rice-producing states. The USA Rice Farmers, USA Rice Council, USA Rice Merchants’ Association, and the USA Rice Millers’ Association are all members of USA Rice.

The U.S. rice industry contributes more than \$34 billion to the U.S. economy annually and provides jobs for more than 125,000 people in the U.S. There are over 5,500 rice farmers throughout the country that grow rice across a collective 2.8 million acres, and the industry produces 20 billion pounds of rice annually. Half of the rice produced in the U.S. is exported overseas to more than 120 countries.

To assist USA Rice with preparation of these comments, a survey of our membership was conducted, and the results from that survey are indicated below.

In response to Questions 1-3, our respondents tend to favor the propositions by the Commission to include:

- the Commission including both VOCCs and NVOCCs in a proposed regulation on demurrage and detention billing;
- the Commission including MTOs in a proposed demurrage billing regulation; and
- a proposed demurrage billing regulation distinguishing between the demurrage MTOs charge to shippers and the demurrage MTOs charge to VOCCs, including the Commission regulating the format in which MTOs bill VOCCs.

In terms of the percentage of demurrage and detention bills containing inaccurate information (Question 4), these ranged from hardly ever to nearly every bill. Information most often disputed includes incorrect charge dates, and charges due to issues outside of the exporters’ control.

For question 5, the type of information included on or with demurrage and detention billings varies dependent on the respondent and ranged from roughly all (common carriers, among marine terminal

operators, and between VOCCs and NVOCCs) providing the same information to NVOCCs tending to have more detail. Some respondents to our survey offer that variability of information is hugely different between carriers and can vary by vessel and terminal.

In regard to question 6, our survey respondents unanimously indicated the following types of information should be required on billings and be essential information included on invoices:

- Bill of lading number
- Container number
- Billing date
- Start/end of free time
- Start/end of demurrage/detention/per diem clock
- Demurrage/detention/per diem rate schedule
- Location of the notice of the charge (*i.e.*, tariff, service contract number and section or MTO schedule)
- For export shipments: Earliest return date, including identifying any modifications to the earliest return date
- For export shipments: Any intervening clock-stopping events, for example:
 - Unavailability of container
 - Unavailability of pickup or return locations
 - Unavailability of appointments (where applicable)

Over half of our respondents indicated these types of information should be included:

- Payment due date
- For import shipments: Vessel arrival date
- For import shipments: Container availability date
- Restrictions on chassis accepted
- Force majeure-related events

Regarding question 7, information or timeframes that should be required for VOCC and NVOCC demurrage and detention bills should be the uniform with Commission requirements. For a specific timeframe, within 30 days was suggested, as was invoices being sent between two- and three-weeks following container termination.

According to most survey respondents, common carriers invoice multiple parties for demurrage and/or detention charges sometimes resulting in duplicative payments (Question 8). In order to avoid these duplicative payments, additional steps and costs are incurred to ensure proper communication between the parties, including time and other resources. Most respondents indicated that if multiple parties are invoiced for charges, the billing party should be required to identify all such parties receiving an invoice for the charges at issue.

For question 9 regarding the billing party being required to identify the basis of why the invoiced party is the proper party in interest and therefore liable for the charges, all respondents unanimously are in favor. It was specifically noted that there should be a standard for all common carriers – not just what is written on each individual carrier's BL.

Over half of our respondents indicated for Question 10 that the Commission, for purposes of clarity and visibility of charges, should require MTOs to bill demurrage directly to shippers (rather than billing VOCCs who then bill shippers for demurrage).

From the point of accrual of a demurrage or detention charge (Question 11), it typically takes anywhere from one week to over six months to receive a demurrage or detention invoice or billing. Generally, our respondents indicated an average of one to two months.

Most agree the Commission should require demurrage and detention invoices to be issued within 60 days of date when the detention/demurrage/per diem stops accruing (Question 12). Other respondents indicated this timeframe should be sooner, such as one to two weeks in that it's typically easier to dispute closer to the event causing the charges.

In terms of Question 13 regarding the Commission requiring specific information be included on the invoice regarding how to dispute a charge, overwhelming our respondents indicated that above all, appropriate and current contact information should be provided. Additionally, other items recommended to be included are websites/portals for disputes to be submitted, turnaround time for such disputes and any circumstances available for a charge to be waived.

The amount of time from the point of dismissal of a charge to receive a refund (Question 14) varies greatly, ranging from weeks to months to one year. Some respondents indicated they had never received a refund while others find it nearly impossible to do so but have been successful. The Commission should require that refunds of demurrage or detention bills be issued within 14 to 30 days.

Generally, regarding Question 15, a regulation on demurrage and detention billing requirements would help expedite and provide clarity for the detention and demurrage clearing process.

For Question 16, we offer that NVOCCs and BCOs are overcoming severe equipment shortages and having to be flexible with labor to load containers in a moment's notice which has been and remains to be difficult. Once those containers are gated in at ports, they are facing delays due to vessel late arrival and thus, as a result, many times the demurrage charges are an unfair practice. NVOCCs then have to dispute these charges daily on imports and exports and it seems to be a broken process with little oversight.

USA Rice thanks the Commission for its work on this important issue to our industry.

Respectfully submitted,



Ben Mosely
Vice President, Government Affairs