

Miami, April 14 2022

VIA ELECTRONIC SUBMISSION (secretary@fmc.gov)

Mr. William Cody
Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, D.C. 20573

**Re: Comments on Demurrage and Detention Billing Requirements ANPRM
FMC Docket No. 22-04
Veconinter USA LLC.**

Dear Mr. Cody:

Veconinter USA LLC. submits the following comments in response to the Advance Notice of Proposed Rulemaking (“ANPRM”) issued by the Federal Maritime Commission (“FMC”) at 87 Fed. Reg. 8506 (February 15, 2022) with respect to demurrage and detention billing requirements.

I. Veconinter’s Interest in the ANPRM

Veconinter is the global leader in Third Party Agent for Demurrage & Detention (D&D) Management with 30+ years of experience providing solutions to the maritime industry and operations in 35+ markets including United States of America.

We focus in transforming our clients’ D&D processes by implementing proactive SOPs, effective equipment control, data mining, which will provide greater visibility, insight, and operational control for their demurrage/detention operations and provide consignees proactive insights in order to optimize resources and reduce operational costs.

Veconinter provides a wide variety of logistics solutions to ocean carriers, freight forwarders, NVOCCs, port terminals, customs brokers as well as importers and exporters.

Veconinter’s mission is to promote the growth of efficient and transparent billing practices and operating efficiencies among ocean carriers and all parties involved in the intermodal freight transportation through innovation, education, and transparency.

II. Responses to Questions Posed in the ANPRM

Question A.1: Should the Commission include both VOCCs and NVOCCs in a proposed regulation on demurrage and detention billing?

Veconinter: Yes, we recommend that all operators involved with D&D billing should be included in the proposed regulation.

Question A.2: Should the Commission include MTOs in a proposed demurrage billing regulation?

Veconinter: Affirmative.

Question A.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

Veconinter: We do not think a distinction is needed. In most cases, the tariff filed by the carrier includes any storage charges that will be billed by the MTO.

Question A.4: What percentage of demurrage and detention bills contain inaccurate information, and which information is most often disputed?

Veconinter: According to our experience, below are the most common reasons for a dispute and how these are currently handled

1. **Equipment tracking:** Consignees can provide the EIRs/TIRs showing the correct in/out date as support and the invoice will thereby be canceled or adjusted using the corrected dates.
2. **Appointment Availability for Empty Return:** Often times we see that appointments are in fact available, however the customer/trucker does not return the older units (applying the FIFO rule) incurring in detention while returning other units within Free time. A proper use of the FIFO rule will avoid unnecessary detention charges.
3. **Free Time:** There is a lack of proper understanding by customers of the contractual terms in regards to the application of free time such as effective date of the contract and that carrier's standard terms as per tariff apply upon expiration.
4. **Detention Caused due to Damaged/Lost/Stolen Equipment:** In certain situations, consignees notify the carrier of incurred damages. However, no supporting documentation for lost/stolen containers is provided to close the case.
5. **Misuse of Equipment:** Truckers often will re-use the equipment without notifying the VOCC of such event. Proper advance communication will allow the carrier to keep track of the equipment and the opportunity to stop the clock for detention calculation.
6. **Lack of Truck Power for Carrier Moves:** Often customers do not meet the requirements to deliver/receive the cargo until the Free Time expires. In other cases the VOCC will take the needed steps to ensure no charges are invoiced if the customer meets all requirements to remove the container from the terminal timely.

Question A.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?

Veconinter: Most carriers provide the same information. It is the format of how the information is presented which differs.

Question B.6: What type of information should be required on billings. Should the Commission require certain essential information included on invoices such as:

Veconinter: According to our experience in the US market, the information required for clear and concise billing and understanding is the following:

- 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 number and section or MTO schedule)
- i. For import shipments:
 - i. Vessel arrival date
 - ii. Container availability date
- k. Clock-stopping events such as:
 - i. Customs Holds
 - ii. Force majeure events (Weather closures, port strikes, other major event caused by port closures).

Question C.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?

Veconinter: Information required should be the same for VOCC and NVOCC.

Question C.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)? In that scenario, MTOs would bill shippers directly for demurrage, and carriers would continue to bill detention to shippers.

Veconinter: Requiring the MTOs to bill customers directly may cause more confusion and headaches for customers. Many carrier's tariff already include port storage.

Question C.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?

Veconinter: Our internal metrics require invoices to be sent and received by consignees within an average of 7 days for demurrage and 14 days for detention.

Question C.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?

Veconinter: We agree with the 60 days.

Question C.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?

Veconinter: We recommend that invoices mention and/or include the specific link and contact information where customers can address a dispute or submit a claim where a clear and dispute resolution process will be shared, including the required information and documentation for a dispute to be valid and the resolution timeframes.

Question C.14: How long from the point of dismissal of a charge does it typically take to receive a refund? Should the Commission require that refunds of demurrage or detention bills be issued within a certain time period and what should that timeframe be?

Veconinter: If the Commission decides to add a timeframe for refunds after dismissal of charges, then Veconinter's recommendation a maximum period of thirty days advising customers that a refund can only be released if no charges are due to the carrier.

III. **Conclusion**

Veconinter strives to play a key role in provide operational efficiencies, insights, standardization, and transparency to the demurrage/detention billing practices allowing the involved parties to manage detention and demurrage in a predictable way and to respond effectively to consignee disputes as well as providing support towards a better equipment utilization while reducing the frictions between carriers and consignees' relative exposure to demurrage and detention.

Veconinter appreciates the FMC's efforts and is pleased to answer any questions that the FMC may have.

Sincerely,

Jose Luis Canavesi
Director – US Representative
Veconinter USA LLC
80 SW 8th Street Suite 2013
Miami FL, 33130
Tels.: 305.592.7857 / 305.335.9551
jcanavesi@veconinter.com
ww.Veconinter.com