



National Association of  
Chemical Distributors

April 15, 2022

Federal Maritime Commission  
Attention: Docket No. 22-04  
Secretary William Cody  
800 North Capitol Street, N.W.  
Washington, DC 20573  
via email: [secretary@fmc.gov](mailto:secretary@fmc.gov)

The National Association of Chemical Distributors (NACD) submits the following comments in response to the Federal Maritime Commission (FMC) Advance Notice of Proposed Rulemaking regarding **Docket No. 22-04, Demurrage and Detention Billing Requirements**, published in the *Federal Register* February 15, 2022.

NACD commends the FMC for addressing this important issue. The chemical products NACD members distribute are essential materials needed for vital functions, including water treatment, health care, energy, food production, and more. As many chemicals not being produced domestically, NACD members rely on maritime shipping to ensure they can receive the products they need. NACD appreciates the opportunity to provide comments on how to improve the oversight of Detention and Demurrage fees in a way that ensures they fulfill their intended purpose of incentivizing the expeditious movement of goods through ports.

### About NACD

The National Association of Chemical Distributors (NACD), established in 1971, is an international association of chemical distributors and their supply-chain partners. Member companies process, formulate, blend, re-package, warehouse, market, and transport chemical products for over 750,000 customers across the U.S. The industry NACD represents is a major economic engine that generates \$7.5 billion in tax revenue.

NACD's members represent more than 85% of the chemical distribution capacity in the nation and generate 90% of the industry's gross revenue. They range from small family-owned businesses to large national and international organizations. NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution<sup>®</sup>, the association's third-party-verified environmental, health, safety, and security program. Through this verification, NACD members demonstrate their commitment to continuous improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Ocean shipping is critical to the chemical distribution industry. In 2021, there were 169,257 twenty equivalent units of chemicals received in the ten busiest U.S. ports alone. These chemicals include chlorine, citric acid, and others that are crucial to the American economy and infrastructure but not always readily available within the U.S. With shipping costs rising

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dramatically, the added burden of severe detention and demurrage fees has forced NACD members to pay exorbitant prices to get necessary chemicals to their customers. An average daily demurrage charge of \$75 to \$150 per container results in almost \$8 million in total demurrage charges on chemical shipments each day.

### Scope

Vessel-operating common carriers (VOCCs), non-vessel-operating common carriers (NVOCCs) and marine terminal operators (MTOs) all charge detention and demurrage fees, and NACD strongly recommends that each be included in any proposed detention and demurrage billing regulation. Every link in this process needs to be accountable to improve the administration of these charges.

When receiving detention and demurrage bills, our members find it common that these fees contain inaccurate information. This places additional strain on our members as they must investigate and dispute these inaccuracies. Many NACD members are small businesses, and the additional time their employees must spend investigating inaccurate charges is particularly burdensome.

The type of information in detention and demurrage fees varies widely among VOCCs, NVOCCs, and MTOs. These inconsistencies make it more difficult to contest charges or even understand why members are being charged. Standardizing what information is included by each entity levying these charges will streamline the detention and demurrage process and give shippers a fair opportunity to dispute charges when there is reason to do so.

### Minimum Billing Information

When receiving detention and demurrage fees our members often see that basic information, such as the billing date, payment due date, bill of lading number, container number, vessel arrival date, and/or container availability date are not included. Without this information, it is extremely difficult to assess which shipment is being charged and whether the fee is accurate. A requirement for all relevant information, including the billing date, payment due date, bill of lading number, container number, vessel arrival date, and container availability date to be clearly marked on invoices would hold the billing parties more accountable. It would prevent the VOCCs, NVOCCs, and MTOs from charging erroneous fees that shippers have little or no opportunity to contest.

Beyond basic information, it is also crucial that details informing shippers of how their fee is calculated be included in the bill. In circumstances where it can be proven that detention or demurrage fees are appropriate, it is equally important to prove the correct amount is being charged. Currently, it is not uncommon for VOCCs, NVOCCs, and MTOs to levy charges without the start/end free time, start/end of demurrage/detention/per diem clock, demurrage/detention/per diem rate schedule, vessel arrival date, container availability date, and/or earliest return date. The omission of this information from invoices by the billing parties makes it extremely difficult for shippers to be able to verify the amounts charged are correct.



Additional details often missing from detention and demurrage invoices are events that should stop the clock such as unavailability of containers, unavailability of pick up/return locations, unavailability of appointments, restrictions on chassis accepted, and/or force majeure-related events. While these events should stop the period covered by detention or demurrage fees, their omission from invoices makes it impossible for shippers to verify whether they are accounted for when the final total is calculated.

### **Billing Practices**

In addition to the need for more information in detention and demurrage fees, there is also a need for the standardization of basic billing practices. For example, the amount of time between the actual detention or demurrage and when the invoice is received is not consistent. A requirement for VOCCs and NVOCCs to issue invoices within a set timeframe would improve shippers' ability to verify charges.

The time it takes to receive a detention or demurrage invoice varies widely. This adds to the administrative burden of NACD member companies and makes the charges more difficult to verify. The suggested requirement that invoices be issued within 60 days would provide more certainty and efficiency by ensuring that shippers will have their information readily available and more quickly be able to verify the accuracy of charges.

Similarly, the timeline of receiving refunds for inaccurate charges is often inconsistent. Standardizing this timeframe would provide additional certainty to shippers in getting the funds they are due. Also, beyond timeframes, the process for disputing a charge is frequently very convoluted and inconsistent among the various billing parties. Adding a requirement for standardized information on how to dispute charges would be an important step in ensuring shippers have an adequate opportunity to make those disputes.

Furthermore, which parties are being assessed fees can be unclear. There are times when detention and demurrage fees are charged to multiple parties, but that is not made clear on the invoice. Requiring those who levy the charges to identify clearly who is being charged, and why, would add important clarification. This would streamline the process and reduce unnecessary time spent by those who are charged looking for information already known by those charging the fees.

### **Conclusion**

NACD appreciates the opportunity to provide its input as the FMC decides whether to add requirements on detention and demurrage billing. Improving the process of how these fees are assessed is crucial in expediting the movement of goods through ports, which is the purpose of detention and demurrage charges as determined by the FMC. We look forward to FMC's final decision.



Sincerely,



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