

FMC tightens rules on charging container late fees

Shippers not obligated to pay demurrage or detention if carriers fail to properly bill

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FMC gives relief to shippers by issuing new requirements on container invoicing. (Photo: Jim Allen/FreightWaves)

The Federal Maritime Commission has imposed new billing standards on ocean carriers and terminal operators in an effort to crack down on abusive container late fees.

The [new requirements](#) focus on demurrage — fees charged by carriers and container terminals when full containers have not been picked up by customers within a certain number of days — and detention, the fees

charged to customers if they are late returning the empty container back to the terminal.

Starting May 26, container ship carriers and marine terminal operators will be required to issue detention and demurrage invoices within 30 calendar days from when charges were last incurred.

Shippers and other billed parties will have at least 30 calendar days to request that charges be refunded. Carriers and terminal operators must try to resolve the matter within 30 calendar days unless the parties agree to a longer timeframe.

The new rules also stipulate minimum data requirements for demurrage and detention invoices:

1. The invoice date
2. The invoice due date
3. The allowed free time in days
4. The start date of free time
5. The end date of free time
6. For imports, the container availability date
7. For exports, the earliest return date
8. The specific date(s) for which demurrage and/or detention were charged

“Failing to include any of the required information in a detention or demurrage invoice eliminates any obligation of the billed party to pay the applicable charge,” the rule states.

Another provision of the rule states that demurrage or detention invoices can be issued to a consignee — that is, the ultimate recipient of the cargo — as an alternative to the shipper.

The new rule “will advance the Commission’s goal of promoting supply chain fluidity by ensuring a clear connection between the failure to pick up cargo or return equipment in a timely manner and the appropriate fee,” the FMC stated in announcing the changes.

“The rule ensures that billed parties understand the demurrage or detention invoices they receive by requiring certain identifiable information be included by the billing party on the invoice.”

The FMC’s demurrage and detention regulation was authorized by the Ocean Shipping Reform Act of 2022, which itself was prompted by what many, including President Joe Biden, saw as market power abuse by foreign-owned container carriers taking advantage of supply chain disruptions during the pandemic.

The FMC states in the preamble to the rule that between 2020 and 2022, nine of the largest carriers serving the U.S. container trades charged approximately \$8.9 billion in demurrage and detention.

Praise from shippers, port truckers

The Agriculture Transportation Coalition (AgTC), which represents U.S. importers and exporters, said the FMC’s rule “marks a major step towards the long-sought objective of AgTC – reform of abusive detention and demurrage practices ... despite vigorous (but ultimately unsuccessful) opposition by the ocean carrier and marine terminal organizations.”

Because the new regulation also clarifies that motor carriers — port drayage truckers in particular — that do not contract with ocean carriers will no longer receive demurrage and detention bills, the American Trucking Associations’ Intermodal Motor Carriers Conference (IMCC) also praised the changes.

“Motor carriers often face major detention and demurrage charges from ocean carriers when shipping containers are delayed either on the dock or

after being taken off the port complex,” the IMCC stated in response to the rule.

“This is the case even though trucking firms are not party to the contracts between the ocean lines and their shippers. During the supply chain disruptions of the pandemic, these charges resulted in major increases in costs for shippers that ultimately were passed onto American consumers.”

Warning from carriers

The FMC estimated the costs for carriers and terminal operators to comply with the updated invoicing requirements at between \$6.3 million and \$12.7 million.

John Butler, president of the World Shipping Council (WSC), whose members will be responsible for implementing invoice changes, told FreightWaves that he is “digesting the final rule and will discuss with our members, so we do not have any public statement now.”

In comments filed with the FMC when the [rule was proposed in 2022](#), WSC warned that if adopted, the stricter requirements “will disincentivize many parties in the supply chain from timely collecting goods from marine terminals and returning empty equipment for use by other customers. That in turn will only increase congestion in our nation’s ports — threatening to worsen the very problem that properly applied detention and demurrage charges are designed to minimize.”