American Shipper

FMC breaks down questions on new detention, demurrage rule

Maritime is trying to adjust to the new ruling

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A new detention and demurrage allows NVOCCs to have an additional 30 calendar days in which to issue an invoice.

The Federal Maritime Commission's revision to the detention and demurrage rule went into effect last week, and the new requirements for billing and timeframe of each step have raised some questions in the logistics industry.

American Shipper reached out to the FMC to answer those questions.

American Shipper: Can you break out the timing of each step? Carriers have 30 days to bill the non-vessel operating common carriers (NVOCC). How long do NVOCCs have to bill their customers? How is the timing for disputes? Any examples you can give?

FMC spokesperson: NVOCCs have an additional 30 calendar days in which to issue an invoice. This 30-day period runs from the date on which the invoice the NVOCC received was issued.

In addition, the Commission recognizes the fact that an NVOCC can be both a billed party and a billing party with respect to the same transaction, and that in such a situation, the NVOCC may not be in a position to dispute an invoice with a VOCC until the NVOCC's customer has disputed the invoice with the NVOCC. As such, the Commission has added § 541.7(c) to require that when an NVOCC informs a VOCC that its customer has disputed its invoice, the VOCC must then allow the NVOCC additional time to dispute the invoice it received from the VOCC.

American Shipper: Are you increasing staffing to expedite disputes?

FMC spokesperson: The number of employees at the Federal Maritime Commission has grown from the pre-pandemic era. Personnel added in program related functions increase the capacity of the Commission to complete its work, including processing disputes filed at the Commission. Even with its growth, the Commission remains a relatively small agency of slightly more than 130 people.

American Shipper asked about demurrage being back billed to shippers. Several logistics executives say they are now seeing this. The FMC did not respond to questions if this is something they are reviewing.

American Shipper also asked about concerns from the trucking industry that the new rule has added an additional layer of complexity in getting paid. Executives explained that the shipper still has the latitude not to pay them.

“The shipper would outlay to the ocean carrier and back bill the trucker for the charges,” said one logistics executive. “This added layer compresses the time with the 30 day rule to get this done in a timely fashion and a legit dispute could be null and void because this added layer of can push the dispute beyond the 30-day rule. Truckers are saying this is a win-win for the ocean carriers and they are on the losing end.” The FMC did not respond if this is an area of the rule they should explore.

American Shipper also asked about the recent spike in spot market prices. The FMC did not offer a comment, but in past interviews, FMC Chairman Daniel Maffei has said freight rates reflect the free markets and supply and demand.