

FMC Audit Team Fires Warning Shot on Detention & Demurrage

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Amid increasing pressure to take action on ocean carrier demurrage and detention (D&D) practices perceived by the shipper community as unfair, opaque, and punitive, the U.S. Federal Maritime Commission (FMC) has become more engaged in investigating and finding solutions to the ongoing supply chain crisis gripping the nation.

On October 15, 2021, the FMC's Vessel-Operating Common Carrier Audit Team sent a letter to 25 container lines and their association, the World Shipping Council, urging them to reform detention and demurrage practices in the container sector.

The regulator urged the carriers to:

1. Display D&D charges clearly and prominently on their web page or customer portal;
2. Develop and document clear internal processes on all matters related to D&D;
3. Clearly delineate dispute resolution procedures, contacts, and required documentation on their website and invoices.

The directive follows and reinforces the FMC's May 2020 final rule outlining how D&D should be determined in violation of the U.S. Shipping Act, and underscores the Commission's drive for transparency in D&D practices.

Additionally, the FMC is moving toward implementation of recommendations advanced by Commissioner Rebecca Dye through Fact Finding 29, which contemplates new disclosures on or with D&D billings and new D&D billing rules.

For any questions related to these developments related to D&D, please contact Bryant E. Gardner (BGardner@winston.com) or Allison N. Skopec (ASkopec@winston.com).

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