

# Demurrage & Detention Dispute Resolution Process

Mohawk Global Logistics

## Background

The Ocean Shipping Reform Act of 2022 (OSRA 22) signed into law on June 16, 2022, put in place new requirements for dispute resolution on demurrage and detention charges assessed by common carriers (VOCCs & NVOCCs) and marine terminal operators (MTOs). The Federal Maritime Commission issued its final rule on Demurrage & Detention Billing Practices with effective date of May 28, 2024.

## New Definitions

*Billed party* means the person receiving the demurrage or detention invoice and who is responsible for payment of any incurred demurrage or detention charge.

*Billing party* means the VOCC, NVOCC, or MTO who issues a demurrage or detention invoice. While in most cases, the billing party will be a VOCC, this term is defined broadly to incorporate the occasions when an MTO or an NVOCC may issue a demurrage or detention invoice.

*Consignee* means the ultimate recipient of the cargo; the person to whom final delivery of the cargo is to be made.

## Dispute Process

Billed party has the right to dispute demurrage or detention charges within thirty (30) calendar days of the invoice issuance date by contacting Mohawk Global by email: [invoiceinquiries@mohawkglobal.com](mailto:invoiceinquiries@mohawkglobal.com)

Billing party then has thirty (30) calendar days from the date such fee mitigation, refund or waiver request is received. Such time frame may be extended by mutual agreement of billed and billing parties.

Mohawk Global, acting as a non-vessel-operating common carrier (NVOCC) can be both a billing and billed party in relation to the same charge. When an NVOCC is acting in both roles, it can inform its billing party that the charge has been disputed by the NVOCC's billed party. The NVOCC's billing party must then provide an additional thirty (30) calendar days for the NVOCC to dispute the charge upon this notice.

Disputes that fail to be resolved within the allotted time frame may be referred to Federal Maritime Commission under a charge complaint or other resolution process.

## Contents of Properly Billed Invoice

*Identifying information.* A demurrage or detention invoice must be accurate and contain sufficient information to enable the billed party to identify the container(s) to which the charges apply and at a minimum must include:

- (1) The Bill of Lading number(s);
- (2) The container number(s);
- (3) For imports, the port(s) of discharge; and
- (4) The basis for why the billed party is the proper party of interest and thus liable for the charge.

*Timing information.* A demurrage or detention invoice must be accurate and contain sufficient information to enable the billed party to identify the relevant time for which the charges apply and the applicable due date for invoiced charges and at a minimum must include:

- (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; and
- (8) The specific date(s) for which demurrage and/or detention were charged.

*Rate information.* A demurrage or detention invoice must be accurate and contain sufficient information to enable the billed party to identify the amount due and readily ascertain how that amount was calculated and must include at a minimum:

- (1) The total amount due;
- (2) The applicable detention or demurrage rule ( e.g., the tariff name and rule number, terminal schedule, applicable service contract number and section, or applicable negotiated arrangement) on which the daily rate is based; and
- (3) The specific rate or rates per the applicable tariff rule or service contract.

*Dispute information.* A demurrage or detention invoice must be accurate and contain sufficient information to enable the billed party to readily identify a contact to whom they may direct questions or concerns related to the invoice and understand the process to request fee mitigation, refund, or waiver, and at a minimum must include:

- (1) The email, telephone number, or other appropriate contact information for questions or request for fee mitigation, refund, or waiver;
- (2) Digital means, such as a URL address, QR code, or digital watermark, that directs the billed party to a publicly accessible website that provides a detailed description of information or documentation that the billed party must provide to successfully request fee mitigation, refund, or waiver; and
- (3) Defined timeframes that comply with the billing practices in this part, during which the billed party must request a fee mitigation, refund, or waiver and within which the billing party will resolve such requests.

*Certifications.* A demurrage or detention invoice must be accurate and contain statements from the billing party that:

- (1) The charges are consistent with any of the Federal Maritime Commission's rules related to demurrage and detention, including, but not limited to, this part and [46 CFR 545.5](#); and
- (2) The billing party's performance did not cause or contribute to the underlying invoiced charges.