



April 8, 2022

Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

Docket No. 22-04, Comments on Demurrage and Detention Billing Requirements ANPRM.

Dear Chairman Maffei and Commissioners Dye, Bentzel, Sola and Vekich:

On behalf of the National Industrial Transportation League (NITL), I want to thank you for your efforts in initiating the Advance Notice of Proposed Rulemaking (ANPRM) on Demurrage and Detention Billing Requirements.

The ANPRM focuses on whether the Commission should require common carriers and marine terminal operators to 1) include certain minimum information on or with demurrage and detention billings and 2) adhere to certain practices regarding the timing of demurrage and detention billings. It also solicited industry feedback on a series of questions regarding the scope and implementation of potential future demurrage/detention proposed rules. Attached are NITL's responses to those questions.

NITL further comments that demurrage and detention charges have skyrocketed during on-going port congestion and related supply chain disruptions and are a major concern for NITL members. Ensuring that demurrage and detention billing practices are fair and reasonable, including that demurrage/detention invoices contain sufficient information to assist the invoice recipient or payor with validating the charges is critical.

Additionally, another transportation agency, the Surface Transportation Board, recently adopted minimum requirements for rail demurrage invoices in response to rail customers' concerns over their lack of transparency and reasonableness. *See* STB Docket Ex Parte 759, *Demurrage Billing Requirements* (March 30, 2021); 49 C.F.R. §§ 1333.4 and 1333.5. Thus, there is precedent for the FMC to take a similar step for ocean demurrage billing practices.

Congress also has identified ocean demurrage/detention billing practices as an important issue warranting greater attention by the FMC in the *Ocean Shipping Reform Act* (OSRA). *See* H.R. 4996 and S. 3580. Both the House and Senate versions of OSRA address demurrage billing and both bills have now passed in their respective chambers and will need to be reconciled through the conference process. However, the FMC currently has the authority to address demurrage

billing requirements and there is no need to wait for Congress' final actions on OSRA. Accordingly, there is justification for the FMC to move forward expeditiously to develop proposed rules following its evaluation of the comments it receives in response to the ANPRM.

Again, NITL commends the FMC for taking steps to evaluate whether to establish rules governing demurrage/detention billing requirements and strongly believes that such action is warranted. NITL appreciates this opportunity to submit comments in response to Docket No. 22-04.

Sincerely,

A handwritten signature in black ink that reads "E. Nancy O'Liddy". The signature is written in a cursive, slightly slanted style.

E. Nancy O'Liddy
Executive Director