

OSRA 22 Final Rule Billing Practices for D&D

As part of the OSRA 22 legislative guidelines effective May 28, 2024, there are new requirements for billing practices relating to demurrage and detention. In brief, this is great news for customs brokers and trucking companies who were often held responsible for charges not within their control. While there are still many unanswered questions surrounding the implementation process, below are the key aspects of this new rule.

- 1.** Minimum information required for all D&D invoices including 20 data elements, which are included below. Failure to include the 20 elements eliminates any obligation of the billed party to pay the applicable charge.
 - ▶ Date container is made available
 - ▶ Port of discharge
 - ▶ Container number or numbers
 - ▶ For exported shipments, the earliest return date
 - ▶ Allowed free time in days
 - ▶ Start date of free time
 - ▶ End date of free time
 - ▶ Applicable detention or demurrage rule on which the daily rate is based
 - ▶ Applicable rate or rates per the applicable rule
 - ▶ Total amount due
 - ▶ Email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees
 - ▶ Statement that charges are consistent with all FMC rules with respect to D&D
 - ▶ Statement that common carrier's performance did not cause or contribute to the underlying invoiced charges
- 2.** Invoice party: the rule defines who can be billed for D&D
 - ▶ Invoices must be issued to party who provided ocean transportation/contract holder OR the consignee on the bill of lading (not to both)
 - ▶ Invoices cannot be issued to US Customs Broker or Notify Party if they are not the party described above, nor can they be issued to trucking companies
 - ▶ Ocean carriers and/or marine terminals must invoice within 30 days from when the demurrage or detention is incurred
 - ▶ NVOCCs (Non Vessel Operating Common Carriers) have 30 days to invoice D&D from the date the invoice is received from the ocean carrier
 - ▶ Billed parties have 30 days from the invoice date to dispute the bill, request mitigation, refund or waiver
 - ▶ Billing parties have 30 days from the date of dispute to resolve the request
 - ▶ The Final Rule applies to both ocean carriers and MTOs (Multimodal Transport Operators/Terminal Operators)

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