



Fees & Surcharges

Subcom Report Q3 2023



F&S Subcom Recommendations

- 2022/Q2 - Rail Jurisdiction
 - Excess Dwell Fees
- 2022/Q3 - Early Return Date (ERD)
- 2022/Q4 - Government Holds
- 2023/Q2 - Comments to NPRM on D&D Billing (rail)

Rail Storage Recommendations

- **NSAC 2022/Q2 recommendation**

- To expand FMC scope to include oversight over all charges on through-bills of lading.

Response: Such expansion would take an act of Congress...

- **NSAC 2023/Q2 comments added to D&D Billing NPRM**

- Tweak definition of demurrage to include all land storage
- Suggests compelling rail operators to invoice ocean carriers directly as the properly contracted party

Status: Under consideration by FMC

Rail Storage Jurisdiction – Current Status

- STB has no authority over contract carriage per Staggers Act
- STB has intermodal exemption per USC 10501 and 10502
- FMC claims jurisdiction on through bills to inland destinations over Common Carriers, MTOs, and OTIs but no operational authority over other unregulated entities (rail)

Recommendation: Excess Dwell Fees

- Proposed at USWC ports – but not implemented port-wide
- Implemented by specific terminals only
- Recommended review if such charges can be extended to account of cargo

Response: The reasonableness of the dwell fees is evaluated against the standard in § 41102(c) and the interpretative rule.

Recommendation: Early Return Date

- The ERD date applicable for a shipment will be the one in effect at the time the empty container is picked up.
- Any subsequent changes in ERD will not result in D&D.

Response: The reasonableness of the fees related to ERD changes is evaluated against the standard in § 41102(c) and the interpretative rule.

Additionally, the Commission is undertaking a rulemaking aimed at strengthening requirements for reasonable and timely dispute resolution with respect to all demurrage and detention invoices received by shippers.

Recommendation: Government Holds

- Change in thinking on Government Holds where all stakeholders share in expenses, by eliminating punitive fees, while reflecting more asset cost.
- Terminals and/or VOCCs agree to invoice, and shippers agree to pay, up to 25% of the contracted or published [D&D] amount for any storage days required by government holds and/or inspections.

Response: The Commission thanks the NSAC for this recommendation and will take it into consideration, including as part of the implementation of the Ocean Shipping Reform Act of 2022.

Discussion ?

Thank you!
