



## **FEDERAL MARITIME COMMISSION**

### **46 CFR Part 541**

**[Docket No. FMC–2025–0107]**

**RIN 3072–AD08**

### **Demurrage and Detention Billing Requirements Properly Issued Invoices Provision Set Aside by Court**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes from the Code of Federal Regulations a section of the final rule published on February 26, 2024, entitled “Demurrage and Detention Billing Requirements.” This action is responsive to a decision of the U.S. Court of Appeals for the District of Columbia Circuit that set aside the properly issued invoices provision of the rule.

**DATES:** This action is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** David Eng, Secretary; Phone: (202) 523-5725; Email: [secretary@fmc.gov](mailto:secretary@fmc.gov).

### **SUPPLEMENTARY INFORMATION:**

On February 26, 2024, the Federal Maritime Commission (Commission) published a final rule entitled “Demurrage and Detention Billing Requirements” under the authority of the Ocean Shipping Reform Act of 2022, Public Law 117-14 (June 16, 2022), 89 FR 14330. This rule established requirements for common carriers and marine terminal operators to include specific minimum information on demurrage and detention invoices, outlined certain detention and demurrage billing practices, such as determination of which parties may appropriately be billed for demurrage or detention

charges, and set timeframes for issuing invoices, disputing charges with the billing party, and resolving such disputes.

In April 2024, the World Shipping Council, a trade association representing the largest vessel-operating common carriers globally, filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, challenging the rule as arbitrary and capricious under the Administrative Procedure Act. On September 23, 2025, the Court held that one section of the rule, 46 CFR 541.4, “is arbitrary and capricious because the Commission failed to explain the seeming inconsistency between its contractual-privity-based rationale and its categorical bar against billing motor carriers even when in privity with the billing party.” *World Shipping Council v. Federal Maritime Commission*, 152 F.4th 215, 220 (D.C. Cir. 2025). Accordingly, the court severed and set aside 46 CFR 541.4. Consistent with that decision, this rule removes 46 CFR 541.4 from the Code of Federal Regulations. The other provisions of the rule remain in effect.

The Commission is not required to provide notice and comment or delay the effective date of this rule. This rule is not subject to the requirement to provide public comment because it falls under the good cause exception at 5 U.S.C. 553(b)(B). The good cause exception is satisfied when notice and comment is “impracticable, unnecessary, or contrary to the public interest.” Notice and comment for this action would be unnecessary and contrary to the public interest. This rule is a necessary administrative step following the court's order setting aside 46 CFR 541.4. Per the court’s decision, section 541.4 has no legal effect. Public comment would not have any impact on the action. For those same reasons, and because this rule implements a court order already in effect, the Commission has good cause to waive the 30-day effective date under 5 U.S.C. 553(d)(3). Delaying the ministerial act of removing the regulatory text in the **Federal Register** is contrary to the public interest because it could lead to confusion, particularly among the regulated public.

## **List of Subjects in 46 CFR Part 541**

Common carriers, Demurrage and detention, Exports, Imports, Marine terminal operators.

For the reasons set forth in the preamble, the Commission amends 46 CFR part 541 as follows:

### **Part 541—DEMURRAGE AND DETENTION**

1. The authority citation for part 541 continues to read as follows:

**Authority:** 5 U.S.C. 553; 46 U.S.C. 40101, 40102, 40307, 40501-40503, 41101-41106, 40901-40904, and 46105; and 46 CFR 515.23.

#### **§ 541.4 [Removed and Reserved]**

2. Remove and reserve § 541.4.

By the Commission.

**David Eng,**  
*Secretary.*

[FR Doc. 2025-23920 Filed: 12/23/2025 8:45 am; Publication Date: 12/29/2025]