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Ocean Carriers Begin Adding Fuel Surcharges Amid Middle East Disruptions: FMC Regulations Require Notifications and Phased Implementation

Several major ocean carriers recently announced new Emergency Fuel Surcharges (EFS) in response to sharply rising bunker fuel costs driven by renewed geopolitical disruptions in the Middle East and longer routing requirements. Additional carriers will likely also announce emergency fuel surcharges or fuel-recovery adjustments in the near term, particularly as bunker prices remain elevated and vessels continue to reroute around ever changing high-risk areas. Carriers are implementing these surcharges on short notice in addition to the existing freight rates and other accessorial charges. While carriers are framing the surcharges as temporary, the announcements are open ended without end dates.

Pursuant to U.S. Federal Maritime Commission (FMC) statutes and regulations, ocean carriers are required to phase in these charges to FMC filing and effective-date requirements. Specifically, even during emergencies, carriers must comply with FMC tariff and publishing requirements. FMC rules prohibit ocean carriers from immediately imposing fuel or any surcharges through its tariff. Carriers are required to observe the designated notice period, typically 30 days, unless the Federal Maritime Commission authorizes an exception. As a result, charges applied without contractual authority, proper filing, or before the lawful effective date are unenforceable.

What this means to you

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Shippers should not assume these newly imposed surcharges are automatically enforceable under their existing contracts. Shippers should review their agreements to confirm:

whether fuel surcharges are expressly permitted,

whether notice requirements apply, and

whether there are caps, cost-based limitations, or duration constraints.

Sudden fuel surcharges and related surcharges underscore the importance of implementing robust protections in transportation agreements. Shippers should consider negotiating language that limits emergency surcharges to documented costs, prohibits markup, and sunsets the charge once fuel prices stabilize.

Contact us

If you have questions regarding provisions in shipping agreements that address Emergency Fuel Surcharges or other charges, please contact Julie Maurer, Benjamin Nashed, Serena Tang, or your Husch Blackwell attorney.