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FMC Clarifies That Charge Complaints May Be Filed Through Traditional Complaint Processes, Not Just the Interim Procedure

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On September 1, 2026, the Federal Maritime Commission (FMC) issued a rule clarifying how Charge Complaints under 46 U.S.C. § 41310 may be filed. The rule clarifies that shippers are not limited to the FMC's no-fee interim email process and may instead pursue Charge Complaints through the commission's traditional formal or small claims complaint procedures.

No matter the route, complaints challenging carrier charges that satisfy the statutory requirements must be treated as Charge Complaints under 46 U.S.C. § 41310. As a result, the burden-shifting framework established by the Ocean Shipping Reform Act (OSRA) of 2022 applies, requiring the respondent carrier, rather than the complainant, to prove the reasonableness of any demurrage or detention charge.

If FMC staff determines a Charge Complaint has merit, the matter may be referred to the Bureau of Enforcement, Investigations, and Compliance (BEIC), which can recommend expedited Show Cause proceedings requiring the carrier to demonstrate why it should not be ordered to refund or waive the challenged charges. The carrier may submit factual and legal support for its position, but discovery and other procedures are generally streamlined to ensure a prompt determination on refunds.

The rule also clarifies that Charge Complaint claims may be asserted alongside other Shipping Act claims, although the Charge Complaint portion must be adjudicated separately under 46 U.S.C. § 41310. In addition, the commission confirmed that Charge Complaints are not subject to a statute of limitations, provided the challenged charge was assessed on or after June 16, 2022. As a result, carriers may face exposure for demurrage, detention, and other covered charges well beyond the three-year limitations period applicable to traditional reparations claims.

What This Means for You

The FMC's rule gives shippers, non-vessel-operating common carriers (NVOCCs), and other cargo interests greater flexibility when challenging unreasonable demurrage and detention charges. Complainants can now use the FMC's formal or small claims procedures without losing OSRA's favorable burden-shifting framework. The rule enables complainants to seek a broader range of relief in a single proceeding. In addition, because Charge Complaints are not subject to a statute of limitations for charges assessed on or after June 16, 2022, companies may have opportunities to challenge charges that would otherwise be time-barred under traditional Shipping Act claims.

Given these changes, shippers and NVOCCs should consider reviewing past demurrage and detention assessments and ensure they maintain thorough invoice and bill of lading records to preserve potential claims.

Contact Us

Husch Blackwell's Transportation, Logistics, and Maritime team continues to monitor developments in the evolving regulatory landscape governing demurrage, detention, and other carrier charges under OSRA 2022. We assist clients in evaluating Charge Complaint exposure, selecting the appropriate procedural track, and strengthening compliance and documentation practices. If you have questions regarding the implications of this rule for your operations, please contact Julie Maurer, Benjamin Nashed, Serena Tang, or your Husch Blackwell attorney.

This article provides general legal information. It does not constitute legal advice to the reader and does not create an attorney-client relationship between the reader and Husch Blackwell LLP. The reader should seek legal advice if they have questions about how this legal information may apply to their own circumstances.