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FMC Announces Interim Procedures for Processing Charge Complaints

December 1, 2022

The Federal Maritime Commission today announced its interim procedures to review, investigate, and adjudicate Charge Complaints.

U.S. shippers have responded positively to the new opportunity, established via the [Ocean Shipping Reform Act of 2022](#), to challenge carrier charges by filing Charge Complaints at the FMC. Since the law's enactment in June, the Commission has received more than 175 filings. The process being shared today clarifies the interim steps the Commission will take under this new authority.

Under the announced process, a Charge Complaint that is “perfected” with sufficient information and details is promptly investigated by FMC staff in the Office of Investigations. The common carrier will be contacted by Commission staff as part of the investigation and asked to respond to the complaint, and justify the charge or fee being investigated. Both parties are notified at the conclusion of the investigation.

If the investigation supports a finding that the common carrier's charge is not in compliance, the Office of Enforcement will recommend that the Commission—the five Commissioners as a body—issue an “Order to Show Cause” to the common carrier under [46 C.F.R. § 502.91](#) to formally adjudicate the Charge Complaint. The common carrier receiving the Order must show why it should not be ordered to refund the fees or charges paid or waive the fees in question. The Commission will issue a decision on the Order to Show Cause, and for charges not in compliance with the law, will order a refund or waiver. The Commission may then also initiate a separate civil penalty proceeding with Commission's Administrative Law Judge for consideration of penalties under [46 U.S.C. §§ 41107 and 41109](#).

An initial determination to not refer a Charge Complaint to the Office of Enforcement does not bar a party from filing a subsequent small claim or formal complaint with the Commission. A party may also seek alternative

dispute resolution services by contacting the Commission's Office of Consumer Affairs and Dispute Resolution Services.

The Commission's Bureau of Enforcement, Investigations, and Compliance reviews all information received on alleged violations of the law and uses its prosecutorial authority to bring actions against parties operating unlawfully.

The guidance is posted on the Commission's [Ocean Shipping Reform Act of 2022 Implementation](#) page that provides a detailed explanation of the Charge Complaint process as well as answers to Frequently Asked Questions on this topic.

Today's announcement is a necessary step in advising the public on the interim procedures that allow the Commission to continue to take prompt action to adjudicate Charge Complaints. Experience gained from these first proceedings will guide the Commission on what form a permanent process should take. A new permanent procedure would be completed through a formal rulemaking after notice and public comment.