

THOUGHT LEADERSHIP

LEGAL UPDATES

PUBLISHED: JANUARY 6, 2026

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JULIE E. MAURER

PHOENIX:

480.824.7883

JULIE.MAURER@

HUSCHBLACKWELL.COM

BENJAMIN L. NASHED

WASHINGTON:

202.378.9335

BENJAMIN.NASHED@

HUSCHBLACKWELL.COM

SERENA L. TANG

WASHINGTON:

202.378.9354

SERENA.TANG@

HUSCHBLACKWELL.COM

FMC Initial Decision Becomes Final: Vessel Operator Ordered to Refund D&D, While MTO Keeps Its Share

On January 5, 2026, the Federal Maritime Commission's (FMC) Initial Decision in a recent administrative proceeding became final, marking a significant development in demurrage and detention ("D&D") invoicing and the allocation of D&D liability between ocean carriers and marine terminal operators ("MTOs").

The shipper challenged D&D charges, claiming the ocean carrier issued invoices without the required information per the Ocean Shipping Reform Act of 2022 ("OSRA 2022"). The Small Claims Officer found the ocean carrier failed to provide compliant invoices for 14 D&D payments made by the shipper, which eliminates the shipper's obligation to pay the charge under OSRA 2022. Because of this, the Initial Decision required the ocean carrier to issue a refund.

Critically, the total amount of D&D paid by the shipper was not the amount refunded. The reparations order was narrowly limited to the sums actually received by the ocean carrier while the MTO was permitted to keep the share it reserved for itself when it remitted payment to the ocean carrier. This means that the MTO kept an amount of the shipper's D&D fees while the ocean carrier was ordered by the Commission to refund approximately \$28,000 to the shipper.

What this means to you

The decision highlights the evolving landscape of D&D billing and the need for all parties, including shippers, carriers, and terminals, to review their invoicing protocols and contractual arrangements. As the FMC continues to enforce the Shipping Act, stakeholders can expect a dynamic field regarding D&D

invoicing, refunding, and liability between the many parties involved in D&D billing.

Contact us

If you have questions regarding the implications of this initial decision, please contact Julie Maurer, Benjamin Nashed, Serena Tang, or your Husch Blackwell attorney.