

Federal Maritime Commission

§ 501.5

(c) *Office of Administration.* The Office of Budget and Financial Management, Office of Human Resources, Office of Information Technology, and Office of Management Services report to the Office of Administration. The Office of Equal Employment Opportunity and the Office of the Inspector General receive administrative assistance from the Director of Administration. All other units of the Commission receive administrative guidance from the Director of Administration.

(d) *Office of the Secretary.* The Office of Consumer Affairs and Dispute Resolution Services reports to the Office of the Secretary.

§ 501.5 Functions of the organizational components of the Federal Maritime Commission.

As further provided in subpart C of this part, the functions, including the delegated authority of the Commission's organizational components and/or officials to exercise their functions and to take all actions necessary to direct and carry out their assigned duties and responsibilities under the lines of responsibility set forth in § 501.4, are briefly set forth as follows:

(a) *Chairman.* As the chief executive and administrative officer of the Commission, the Chairman presides at meetings of the Commission, administers the policies of the Commission to its responsible officials, and ensures the efficient discharge of their responsibilities. The Chairman provides management direction to the Offices of Equal Employment Opportunity, Inspector General, Secretary, General Counsel, Administrative Law Judges, Operations, and Administration with respect to all matters concerning overall Commission workflow, resource allocation (both staff and budgetary), work priorities and similar managerial matters; and establishes, as necessary, various committees and boards to address overall operations of the agency. The Chairman serves as appeals officer under the Freedom of Information Act, the Privacy Act, and the Federal Activities Inventory Reform Act of 1998. The Chairman appoints the heads of major administrative units after consultation with the other Commissioners. In addition, the Chairman, as

“head of the agency,” has certain responsibilities under Federal laws and directives not specifically related to shipping. For example, the special offices or officers within the Commission, listed under paragraphs (a)(1) through (a)(4) of this section, are appointed or designated by the Chairman, are under his or her direct supervision and report directly to the Chairman:

(1) Under the direction and management of the Office Director, the *Office of Equal Employment Opportunity* (“EEO”) ensures that statutory and regulatory prohibitions against discrimination in employment and the requirements for related programs are fully implemented. As such, the Office administers and implements comprehensive programs on discrimination complaints processing, affirmative action and special emphasis. The Director, EEO, advises the Chairman regarding EEO's plans, procedures, regulations, reports and other matters pertaining to policy and the agency's programs. Additionally, the Director provides leadership and advice to managers and supervisors in carrying out their respective responsibilities in equal employment opportunity. The EEO Office administers and implements these program responsibilities in accordance with Equal Employment Opportunity Commission (“EEOC”) Regulations at 29 CFR Part 1614 and other relevant EEOC Directives and Bulletins.

(2) Under the direction and management of the Inspector General, the *Office of Inspector General* conducts, supervises and coordinates audits and investigations relating to the programs and operations of the Commission; reviews existing and proposed legislation and regulations pertaining to such programs and operations; provides leadership and coordination and recommends policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect waste, fraud and abuse in, such programs and operations; and advises the Chairman and the Congress fully and currently about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

§ 501.5

46 CFR Ch. IV (10-1-06 Edition)

(3) The *Information Security Officer* is a senior agency official designated under § 503.52 of this chapter to direct and administer the Commission's information security program, which includes an active oversight and security education program to ensure effective implementation of Executive Orders 12958 and 12968.

(4) The *Designated Agency Ethics Official* and *Alternate* are appropriate agency employees formally designated under 5 CFR 2638.202 and § 508.101 of this chapter to coordinate and manage the ethics program as set forth in 5 CFR 2638.203, which includes the functions of advising on matters of employee responsibilities and conduct, and serving as the Commission's designee(s) to the Office of Government Ethics on such matters. They provide counseling and guidance to employees on conflicts of interest and other ethical matters.

(b) *Commissioners*. The members of the Commission, including the Chairman, implement various shipping statutes and related directives by rendering decisions, issuing orders, and adopting and enforcing rules and regulations governing persons subject to the shipping statutes; and perform other duties and functions as may be appropriate under reorganization plans, statutes, executive orders, and regulations.

(c) *Secretary*. Under the direction and management of the Secretary, the Office of the Secretary:

(1) Is responsible for the preparation, maintenance and disposition of the official files and records documenting the business of the Commission. In this regard, the Office:

(i) Prepares and, as appropriate, publishes agenda of matters for action by the Commission; prepares and maintains the minutes with respect to such actions; signs, serves and issues, on behalf of the Commission, documents implementing such actions, and coordinates follow-up thereon.

(ii) Receives and processes formal and informal complaints involving alleged statutory violations, petitions for relief, special dockets applications, applications to correct clerical or administrative errors in service contracts, requests for conciliation service, staff recommendations for inves-

tigation and rulemaking proceedings, and motions and filings relating thereto.

(iii) Disseminates information regarding the proceedings, activities, functions, and responsibilities of the Commission to the maritime industry, news media, general public, and other government agencies. In this capacity the Office also:

(A) Administers the Commission's Freedom of Information Act, Privacy Act and Government in the Sunshine Act responsibilities; the Secretary serves as the Freedom of Information Act and Privacy Act Officer.

(B) Authenticates records of the Commission.

(C) Receives and responds to subpoenas directed to Commission personnel and/or records.

(D) Compiles and publishes the bound volumes of Commission decisions.

(E) Coordinates publication of documents, including rules and modifications thereto with the Office of the Federal Register; the Secretary serves as the Federal Register Liaison Officer and Certifying Officer.

(F) Oversees the content and organization of the Commission's Web site and authorizes the publication of documents thereon.

(2) Through the Secretary and, in the absence or preoccupation of the Secretary, through the Assistant Secretary, administers oaths pursuant to 5 U.S.C. § 2903(b).

(3) Manages the Commission's library and related services.

(4) Through the Office of Consumer Affairs and Dispute Resolution Services, has responsibility for developing and implementing the Alternative Dispute Resolution Program, responds to consumer inquiries and complaints, and coordinates the Commission's efforts to resolve disputes within the shipping industry. The Director of the Office of Consumer Affairs and Dispute Resolution Services is designated as the agency Dispute Resolution Specialist pursuant to section 3 of the Administrative Dispute Resolution Act of 1996, Public Law 104-320.

(d) *General Counsel*. Under the direction and management of the General Counsel, the Office of the General Counsel:

Federal Maritime Commission

§ 501.5

(1) Reviews for legal sufficiency all staff memoranda and recommendations that are presented for Commission action and staff actions acted upon pursuant to delegated authority under §§ 501.27(e) and 501.27(g).

(2) Provides written or oral legal opinions to the Commission, to the staff, and to the general public in appropriate cases.

(3) Prepares and/or reviews for legal sufficiency, before service, all final Commission decisions, orders, and regulations.

(4) Monitors, reviews and, as requested by the Committees of the Congress, the Office of Management and Budget, or the Chairman, prepares comments on all legislation introduced in the Congress affecting the Commission's programs or activities, and prepares draft legislation or amendments to legislation; coordinates such matters with the appropriate Bureau, Office or official and advises appropriate Commission officials of legislation that may impact the programs and activities of the Commission; prepares testimony for congressional hearings and responses to requests from congressional offices.

(5) Serves as the legal representative of the Commission in courts and in administrative proceedings before other government agencies.

(6) Monitors and reports on international maritime developments, including laws and practices of foreign governments which affect ocean shipping; and identifies potential state-controlled carriers within the meaning of section 3(8) of the Shipping Act of 1984, researches their status, and makes recommendations to the Commission concerning their classification.

(7) Represents the Commission in U.S. Government interagency groups dealing with international maritime issues; serves as a technical advisor on regulatory matters in bilateral and multilateral maritime discussions; and coordinates Commission activities through liaison with other government agencies and programs and international organizations.

(8) Screens, routes, and maintains custody of U.S. Government and international organization documents, subject to the classification and safe-

keeping controls administered by the Commission's Information Security Officer.

(9) Reviews for legal sufficiency all adverse personnel actions, procurement activities, Freedom of Information Act and Privacy Act matters and other administrative actions.

(10) Serves as the Chair of the Permanent Task Force on International Affairs or designates a person to serve as the Chair.

(e) *Administrative Law Judges.* Under the direction and management of the Chief Administrative Law Judge, the Office of Administrative Law Judges holds hearings and renders initial or recommended decisions in formal rule-making and adjudicatory proceedings as provided in the Shipping Act of 1984, and other applicable laws and other matters assigned by the Commission, in accordance with the Administrative Procedure Act and the Commission's Rules of Practice and Procedure.

(f) *Office of Operations.* (1) The Director of Operations:

(i) As senior staff official, is responsible to the Chairman for the management and coordination of the Commission's Bureaus of Certification and Licensing; Trade Analysis; Enforcement; and the Commission's Area Representatives, as more fully described below, and thereby implements the regulatory policies of the Commission and directives of the Chairman;

(ii) The Office initiates recommendations, collaborating with other elements of the Commission as warranted, for long-range plans, new or revised policies and standards, and rules and regulations, with respect to its program activities.

(2) [Reserved]

(g) Under the direction and management of the Bureau Director, the *Bureau of Certification and Licensing*:

(1) Through the Office of Transportation Intermediaries, has responsibility for reviewing applications for Ocean Transportation Intermediary ("OTI") licenses, and maintaining records about licensees.

(2) Through the Office of Passenger Vessels and Information Processing, has responsibility for reviewing applications for certificates of financial responsibility with respect to passenger

§ 501.5

46 CFR Ch. IV (10–1–06 Edition)

vessels, managing all activities with respect to evidence of financial responsibility for OTIs and passenger vessel owner/operators, and for developing and maintaining all Bureau databases and records of OTI applicants and licensees.

(h) Under the direction and management of the Bureau Director, the *Bureau of Trade Analysis*, through its Office of Agreements; Office of Economics and Competition Analysis; and Office of Service Contracts and Tariffs, reviews agreements and monitors the concerted activities of common carriers by water, reviews and analyzes service contracts, monitors rates of government controlled carriers, reviews carrier published tariff systems under the accessibility and accuracy standards of the Shipping Act of 1984, responds to inquiries or issues that arise concerning service contracts or tariffs, and is responsible for competition oversight and market analysis.

(i) Under the direction and management of the Bureau Director, the *Bureau of Enforcement*:

(1) Participates as trial counsel in formal Commission proceedings when designated by Commission order, or when intervention is granted;

(2) Initiates, processes and negotiates the informal compromise of civil penalties under § 501.28 and § 502.604 of this chapter, and represents the Commission in proceedings and circumstances as designated;

(3) Acts as staff counsel to the Director of Operations and other bureaus and offices;

(4) Coordinates with other bureaus and offices to provide legal advice, attorney liaison, and prosecution, as warranted, in connection with enforcement matters;

(5) Conducts investigations leading to enforcement action, advises the Commission of evolving competitive practices in international oceanborne commerce, and assesses the practical repercussions of Commission regulations.

(j) *Area Representatives*. Maintain a presence in locations other than Washington, DC, with activities including the following:

(1) Representing the Commission within their respective geographic areas;

(2) Providing liaison between the Commission and the shipping industry and interested public; conveying pertinent information regarding regulatory activities and problems; and recommending courses of action and solutions to problems as they relate to the shipping public, the affected industry, and the Commission;

(3) Furnishing to interested persons information, advice, and access to Commission public documents;

(4) Receiving and resolving informal complaints, in coordination with the Director, Office of Consumer Affairs and Dispute Resolution Services;

(5) Investigating potential violations of the shipping statutes and the Commission's regulations;

(6) Conducting shipping industry surveillance programs to ensure compliance with the shipping statutes and the Commission's regulations. Such programs include common carrier audits, service contract audits and compliance checks of OTIs;

(7) Upon request of the Bureau of Certification and Licensing, auditing passenger vessel operators to determine the adequacy of performance bonds and the availability of funds to pay liability claims for death or injury, and assisting in the background surveys of OTI applicants;

(8) Conducting special surveys and studies, and recommending policies to strengthen enforcement of the shipping laws;

(9) Maintaining liaison with Federal and State agencies with respect to areas of mutual concern; and

(10) Providing assistance to the various bureaus and offices of the Commission, as appropriate and when requested.

(k) *Office of Administration*. (1) The Director of Administration:

(i) Provides administrative guidance to all units of the Commission, except the Offices of Equal Employment Opportunity and the Inspector General, which are provided administrative assistance;

(ii) Is the agency's Chief Acquisition Officer under the Services Acquisition Reform Act of 2003, Public Law 108-136, 117 Stat. 1663 and Commission Order No. 112;

Federal Maritime Commission

§ 501.5

(iii) Is the Audit Follow-up and Management (Internal) Controls Official for the Commission under Commission Orders 103 and 106;

(iv) Is the agency's Chief Financial Officer;

(v) Serves as the agency's lead executive for strategic planning, implementation and compliance with the Government Performance and Results Act of 1993, Public Law 103-62, 107 Stat. 285;

(2) The Deputy Director of Administration is the Commission's Chief Information Officer.

(3) The Office of Administration ensures the periodic review and updating of Commission orders. Under the direction and management of the Director of Administration, the Office of Administration is responsible for the management and coordination of the Offices of: Budget and Financial Management, Human Resources, Information Technology, and Management Services. The Office of Administration provides administrative support to the program operations of the Commission. The Director of Administration interprets governmental policies and programs and administers these in a manner consistent with Federal guidelines, including those involving financial management, human resources, information technology, and procurement. The Office initiates recommendations, collaborating with other elements of the Commission as warranted, for long-range plans, new or revised policies and standards, and rules and regulations, with respect to its activities. The Director of Administration is responsible for directing and administering the Commission's training and development function. The Director of Administration also acts as the Commission's representative to the Small Agency Council. Other programs are carried out by its Offices, as follows:

(i) Office of Budget and Financial Management, under the direction and management of the Office Director, administers the Commission's financial management program, including fiscal accounting activities, fee and forfeiture collections, and payments, and ensures that Commission obligations and expenditures of appropriated funds are proper; develops annual budget justifications for submission to the Con-

gress and the Office of Management and Budget; develops and administers internal controls systems that provide accountability for agency funds; administers the Commission's travel and cash management programs, ensures accountability for official passports; and assists in the development of proper levels of user fees.

(ii) The Office of Human Resources, under the direction and management of the Office Director, plans and administers a complete personnel management program including: Recruitment and placement; position classification and pay administration; occupational safety and health; employee counseling services; employee relations; workforce discipline; performance appraisal; incentive awards; retirement; and personnel security.

(iii) Office of Information Technology, under the direction and management of the Office Director, administers the Commission's information technology ("IT") program under the Paperwork Reduction Act of 1995, as amended, as well as other applicable laws that prescribe responsibility for operating the IT program. The Office provides administrative support with respect to information technology to the program operations of the Commission. The Office interprets governmental policies and programs for information technology and administers these policies and programs in a manner consistent with federal guidelines. The Office initiates recommendations, collaborating with other elements of the Commission as warranted, for long range plans, new or revised policies and standards, and rules and regulations with respect to its program activities. The Office's functions include: conducting IT management studies and surveys; managing data telecommunications; developing and managing databases and applications; coordinating records management activities; administering IT contracts; and developing Paperwork Reduction Act clearances for submission to the Office of Management and Budget. The Office is also responsible for managing the computer security and the records and forms programs. The Director of the Office serves as Senior IT Officer,

§ 501.11

Forms Control Officer, Computer Security Officer, and Records Management Officer.

(iv) Office of Management Services, under the direction and management of the Office Director, directs and administers a variety of management support service functions of the Commission. The Director of the Office is the Commission's principal Contracting Officer under Commission Order No. 112. Programs include voice telecommunications; acquisition of all goods and services used by the Commission; building security and emergency preparedness; real and personal property management; printing and copying; mail services; graphic design; equipment maintenance; and transportation. The Office Director is the agency's liaison with the Small Agency Council's Procurement and Administrative Services Committees and with the General Services Administration ("GSA") and the Department of Homeland Security ("DHS") on building security Committee.

(l) *Boards and Committees.* The following boards and committees are established by separate Commission orders to address matters relating to the overall operations of the Commission:

(1) The *Executive Resources Board* ("ERB") is composed of all Senior Executive Service members. The Chairman shall designate an ERB chair on a rotational basis beginning October 1 of each year. The Board meets on an *ad hoc* basis to discuss, develop and submit recommendations to the Chairman on matters related to the merit staffing process for career appointments in the Senior Executive Service, including the executive qualifications of candidates for career appointment. The Board also plans and manages the Commission's executive development programs. Serving the Board in a non-voting advisory capacity are the Director, Office of Equal Employment Opportunity, the Training Officer, and the Director, Office of Human Resources, who also serves as the Board's secretary. [Commission Order No. 95.]

(2) The *Performance Review Board* ("PRB") is chaired by a Commissioner designated by the Chairman, and is composed of a standing register of members which is published in the

46 CFR Ch. IV (10-1-06 Edition)

FEDERAL REGISTER. Once a year, the PRB Chairman appoints performance review panels from the membership to review individual performance appraisals and other relevant information pertaining to Senior Executives at the Commission, and to recommend final performance ratings to the Chairman. [Commission Order No. 115.] Every three years, the PRB considers supervisors' recommendations as to whether Senior Executives of the Commission should be recertified under the Ethics Reform Act of 1989, and makes appropriate recommendations to the Commission's Chairman. [Commission Order No. 118.]

Subpart B—Official Seal

§ 501.11 Official seal.

(a) *Description.* Pursuant to section 201(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. app. 1111(c)), the Commission prescribes its official seal, as adopted by the Commission on August 14, 1961, which shall be judicially noticed. The design of the official seal is described as follows:

(1) A shield argent paly of six gules, a chief azure charged with a fouled anchor or; shield and anchor outlined of the third; on a wreath argent and gules, an eagle displayed proper; all on a gold disc within a blue border, encircled by a gold rope outlined in blue, and bearing in white letters the inscription "Federal Maritime Commission" in upper portion and "1961" in lower portion.

(2) The shield and eagle above it are associated with the United States of America and denote the national scope of maritime affairs. The outer rope and fouled anchor are symbolic of seamen and waterborne transportation. The date "1961" has historical significance, indicating the year in which the Commission was created.

(b) *Design.*