

Office of Inspector General

Semiannual Report to the Congress

Covering the Period
October 1, 2008 to March 31, 2009



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

April 29, 2009

Office of Inspector General

Dear Commissioners:

The attached report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. It summarizes the activities of the Office of Inspector General (OIG) for the period October 1, 2008, to March 31, 2009. The Act requires that you transmit the report to the appropriate Congressional committees within 30 days of receipt. Your transmittal should also include any comments you consider appropriate and other statistical tables and reports required by law.

During this period the OIG issued four audits / evaluations of FMC programs or activities and initiated five audits of agency operations. Also during this reporting period, the OIG received 24 complaints and one request for information. Of the 24 complaints received, we forwarded 20 complaints to the appropriate FMC program office for disposition and two complaints to other agency OIGs with jurisdiction over the subject of the complaint. The remaining two complaints were addressed within the OIG. The OIG opened no new investigations and referred no matters to prosecutorial authorities during the period.

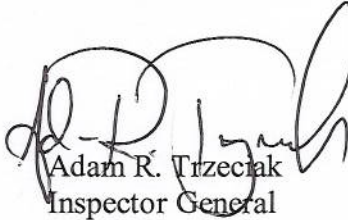
The OIG implemented several provisions pertaining to the Inspector General Reform Act of 2008, including revising an internal Commission Order on OIG processes and procedures to reflect Reform Act requirements, developing a Memorandum of Understanding with a sister OIG for counsel support and working with the agency's webmaster to provide a direct link to the OIG's website from the FMC's homepage.

During the period, the Inspector General visited the New York Area Office as the first of six visits to FMC field locations and briefed the Commission on the results of the trip. The OIG began planning activities for its annual Federal Information Security Management Act evaluation and for a peer review of the OIG at the U.S. Election Assistance Commission.

The OIG also coordinated with FMC program staff to provide assistance to other federal agencies. For example, the OIG arranged for a briefing by FMC staff from the Office of Operations (to include the Bureau of Enforcement and the Bureau of Certification and Licensing) to OIG agents from the Export/Import (Ex-Im) Bank. FMC staff assisted the agents to navigate the myriad rules and document processing requirements involved in importing and exporting goods overseas by ship. Also during the period, the OIG requested assistance from the Bureau of Trade Analysis on behalf of the U.S Army Criminal Investigation Division (CID) pertaining to an ongoing investigation. Specifically, the CID asked BTA to research select service contracts in its (BTA) confidential filing database between vessel-operating common carriers and their shipper

customers. BTA searched the SERVCON database for responsive material and provided research on several tariff publications to give CID additional information it believed pertinent to CID's rate investigation.

As in the past, management has been responsive in attempting to implement all OIG recommendations. I appreciate management's support and I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.



Adam R. Tizciak
Inspector General

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EXECUTIVE SUMMARY

This Semiannual Report to the Congress summarizes the activities and accomplishments of the Federal Maritime Commission (FMC or Commission), Office of Inspector General (OIG), for the period October 1, 2008, through March 31, 2009. During this period we issued four audits / evaluations of FMC programs or activities and began five additional audits of agency operations.

Also during this reporting period, the OIG received 24 complaints and one request for information. Of the 24 complaints received, we forwarded 20 complaints to the appropriate FMC program area for disposition and two complaints to other agency OIGs with jurisdiction over the subject of the complaint. The remaining two complaints were addressed within the OIG. The OIG opened no new investigations and referred no matters to prosecutorial authorities during the period.

The OIG implemented several provisions pertaining to the Inspector General Reform Act of 2008, including revising an internal Commission Order on OIG processes and procedures to reflect mandated changes, developing a Memorandum of Understanding with a sister OIG for counsel support and working with the agency's webmaster to provide a direct link to the OIG's website from the FMC's homepage.

In addition to these audit and investigative activities and outcomes, the Inspector General visited the New York Area Office as the first of six visits to FMC field locations and briefed the Commission of the results of the trip. The OIG began planning activities for its annual Federal Information Security Management Act evaluation and for a peer review of the OIG at the U.S. Election Assistance Commission.

Details on these and other activities are provided below.

BACKGROUND

The FMC is an independent agency responsible for the regulation of ocean-borne transportation in the foreign commerce of the United States. The principal statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998; the Foreign Shipping Practices Act of 1988; and Section 19 of the Merchant Marine Act of 1920.

The FMC is headed by five Commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. For Fiscal Year (FY) 2009, the Commission was appropriated \$22.8 million to fund 124 full-time equivalent positions.

Although the majority of the Commission's personnel are located in Washington, D.C., it also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston and South Florida, through area representatives who serve the major ports and transportation centers within their respective geographic areas. In addition, two at-large area representatives operate from Washington, D.C.

The FMC's Office of Inspector General (OIG) was established in 1989 as required by the Inspector General Act Amendments of 1988 (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an Inspector General (IG) who reports directly to the Chairman of the FMC. To aid the FMC in accomplishing its mission, the OIG was provided two full-time staff, one part-time staff and a budget of \$572,000 for Fiscal Year 2009.

The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of finding and preventing fraud, waste and abuse and promoting economy, efficiency and effectiveness within the agency. OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals or entities having contracts with, or obtaining benefits from, the

agency. The Inspector General Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

The IG is required by law to prepare a report summarizing its audits and investigations during the immediately preceding six-month period. The report is sent to the FMC Chairman, the President of the Senate, the Speaker of the House of Representatives and FMC's appropriating and authorizing committees. This dual reporting requirement facilitates and ensures the independence of the OIG.

AUDITS/EVALUATIONS

During this semiannual period, the OIG issued an audit of the FMC's FY 2008 financial statements and a companion report to management on financial-related findings and recommendations resulting from the audit. We also issued an audit of the Bureau of Enforcement's time and attendance practices and a program inspection of the agency's checkout processes. In addition, we began planning the OIG's annual evaluation of information security pursuant to the Federal Information Security Management Act.

Issued Audits and Reviews

<u>Audit Report Number</u>	<u>Subject of Audit</u>
A09-01	Audit of the FMC's FY 2008 Financial Statements
A09-01A	Management Letter to the FY 2008 Audited Financial Statements
A09-02	Review of the Bureau of Enforcement's Time and Attendance Practices
OR09-01	Operational Review – Inspection of the Agency's Checkout Process

Summary of Audits Issued During the Current Period

In A09-01, *Audit of the Federal Maritime Commission's Financial Statements for the Fiscal Year Ending September 30, 2008*, the objective was to opine on whether the agency's financial statements follow Generally Accepted Accounting Principles and present fairly the financial position of the agency. The statements audited were the Balance Sheets as of September 30, 2008 and 2007, and the related Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources, Statements of Financing and Statements of Custodial Activity, for the years then ended. This was the fifth consecutive year that the FMC prepared financial statements for audit. As in the four prior years, the agency received an unqualified opinion, the highest opinion given by independent auditors.

The FY 2008 audited statements provide insight into the mission and operations of the Federal Maritime Commission. For example, the FMC had total assets of \$4.1 million and \$2.9 million as of September 30, 2008 and September 30, 2007, respectively. The FMC had a single source of funds, Salaries and Expenses, funded by an annual appropriation, that was available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's budget authority for fiscal year 2008 was \$22.1 million. This represents a net increase of \$1.4 million over fiscal year 2007 budget authority. Although the FMC collects remittances for "user fees" and "fines and penalties," the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections, totaling just under \$500,000 in FY 2008, were deposited directly into the Treasury General Fund.

As part of the audit, the OIG reviewed and tested the Commission's compliance with laws and regulations. The review disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards* (GAS) or Office of Management and Budget (OMB) Bulletin 07-04, *Audit Requirements for Federal Financial Statements*. In addition, the OIG review of compliance with the Federal Financial Management Improvement Act (FFMIA)

of 1996 disclosed no instances in which FMC's financial management systems did not comply substantially with FFMIA, GAS or OMB.

The OIG review of internal control over financial reporting did not find any matters involving the internal control and its operations that were considered material weakness in the systems and processes we tested. On the other hand, the OIG did identify vulnerabilities in agency financial systems that warranted some corrective actions. These findings, presented in A09-01A, *FY 2008 Management Letter to the Financial Statements*, involved (i) erroneous payments, and (ii) utilization of the agency's procurement services provider. The Commission's management addressed these vulnerabilities by (i) raising the floor on the collection of erroneous payments, saving the agency time (and resources) by forgiving erroneous payments under \$25, and (ii) using procurement processing services more frequently, as these services are billed at a flat rate. In addition, the OIG closed two open recommendations from the prior year.

In A09-02, *Review of the Bureau of Enforcement's Time and Attendance Practices*, the objectives were to assess whether the bureau complied with agency policies and government regulations concerning time and attendance (T/A) reporting.

The OIG found weaknesses in internal control that lead to errors or omissions in the recording of T/A data. For example, we found a lack of separation of duties that enabled both the primary and alternate timekeepers to record their leave in the payroll system in violation of FMC payroll processing procedures and Government Accountability Office internal control standards. An unscrupulous employee could enter fewer leave hours than were actually used with little fear of detection.

Further, the payroll file repeatedly lacked required documentation to enable us to identify work schedules, including "telework" approvals, employee arrival and departure records for employees on alternative work schedules and employee requests for leave. We identified 265

hours of leave used by the four employees in our sample without the leave request documented in the file.

When leave was requested in advance, we identified several instances where the amount of leave approved exceeded the leave documented in the payroll system. One explanation for this observation is that the leave used was less than originally requested. Another explanation is leave abuse – leave taken but not fully recorded. We could not determine the reason for the discrepancies in large part due to the breakdown in internal control. Bureau management agreed with the findings in the report and took immediate steps to implement the OIG recommendations as soon as it learned of the internal control deficiencies.

In OR09-01, *Inspection of the Agency's Checkout Process*, the objective was to assess whether controls are in place to remove separated employees from agency systems and databases, to collect outstanding balances and to retrieve agency-owned materials and equipment.

Generally speaking, the agency is doing a good job removing separating employees from agency information systems and controlling agency property. However, we also identified areas where improvements are possible. The agency needs to coordinate better with outside agencies and other non-federal employees (e.g., contractors and students) regarding the control of keycards. We also identified select instances where some former FMC employees retained access to systems months after leaving the agency. The OIG verified that no former employee accessed agency systems or accepted agency-funded benefits after separating. Still, the agency is vulnerable to such abuse when accounts are not closed.

The OIG made eight recommendations to address the observed weaknesses. Management agreed to implement all recommendations by June 30, 2009.

Audits and Reviews in Process

Due to the observed deficiencies associated with T/A practices in one FMC bureau, the OIG expanded the coverage to include five additional bureaus/offices. The objective of these audits is to assess whether the bureaus/offices comply with agency policies and government regulations concerning T/A reporting. To simplify communicating the audit results, the OIG will report separately on each bureau/office.

The OIG has also initiated planning activities on an evaluation of the FMC's implementation of the Federal Information Security Management Act (FISMA) for Fiscal Year 2009. The review objectives are to assess compliance with FISMA and related information security policies, procedures, standards and guidelines, and to test their effectiveness on a representative subset of the agency's information systems. Specifically, this review will (i) evaluate the implementation of the FMC's information security program; (ii) assess agency progress towards correcting weaknesses addressed in the FY 2008/2009 Plan of Actions & Milestones (POA&M); and (iii) verify and test information security for the FMC network and its wireless tools.

INVESTIGATIVE ACTIVITIES

The Inspector General Act of 1978, as amended, provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste and abuse occurring within FMC programs and operations. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies and the general public.

During this reporting period, the OIG received 24 complaints: we forwarded 20 complaints to the appropriate FMC program area for disposition and two complaints to other agency OIGs with jurisdiction over the subject matter of the complaint. The remaining two

complaints were addressed within the OIG. The OIG opened no new investigations and referred no matters to prosecutorial authorities during the period.

OTHER OIG ACTIVITIES

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the Office of Inspector General routinely reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed legislation or regulation (1) impacts the economy and efficiency of FMC programs and operations, and (2) contains adequate internal controls to prevent and detect fraud and abuse. During this period, a number of Commission Orders/policy guidelines were reviewed by this Office.

During the period, the OIG also revised an internal Commission Order, entitled *Inspector General Activities*, to implement provisions of the Inspector General Reform Act of 2008 (P.L. 110-409).

Council of Inspectors General on Integrity and Efficiency Activities

The Council of Inspectors General on Integrity and Efficiency (CIGIE) was statutorily established as an independent entity within the executive branch by the Inspector General Reform Act of 2008 (P.L. 110-409) to:

- address integrity, economy, and effectiveness issues that transcend individual Government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

The CIGIE is comprised of all Inspectors General whose offices are established under section 2 or section 8G of the Inspector General Act of 1978 (5 U.S.C. App.), those that are Presidentially-appointed/Senate Confirmed and those that are appointed by agency heads (designated federal entities). The Deputy Director for Management of the Office of Management and Budget is the Executive Chair of the Council.

To accomplish its mission, the members participate in interagency and inter-entity audit, inspection and investigation projects to promote economy and efficiency in federal programs and operations and address more effectively government-wide issues of fraud, waste and abuse. The Council members also develop policies, standards and approaches to aid in the establishment of a well-trained and highly skilled IG workforce.

The Inspector General and Assistant Inspector General continued to participate in CIGIE and the Federal Audit Executive Council (FAEC) activities. The FAEC is comprised of senior audit staffs that discuss and coordinate issues affecting the Federal audit community with special emphasis on audit policy and operations of common interest to FAEC members.

During the reporting period, the OIG began preparations to perform a peer review of a sister OIG at the U.S. Election Assistance Commission. The objectives of a peer review are to determine whether an effective quality control system has been established in the office and if policies, procedures and applicable Government Auditing Standards are being followed. All federal Offices of Inspector General are required by the IG Act to have a peer review performed on their organization once every three years. These reviews are to be performed only by federal auditors.

Significant Management Decisions

If the IG disagrees with any significant management decision, Section 5(a)(12) of the Inspector General Act requires that such disagreement be reported in the semiannual report.

Further, Section 5(a)(11) of the Act requires that any decision by management to change its response to a significant resolved audit finding must also be disclosed in the semiannual report. For this reporting period, there were no significant management decisions made on which the IG disagreed, and management did not revise an earlier decision on an OIG audit recommendation.

Access to Information

The IG is to be provided with ready access to all agency records, information or assistance when conducting an investigation or audit. Section 6(b)(2) of the IG Act requires the IG to report to the agency head, without delay, if the IG believes that access to required information, records or assistance has been unreasonably refused, or otherwise has not been provided. A summary of each report submitted to the agency head in compliance with Section 6(b)(2) must be provided in the semiannual report in accordance with Section 5(a)(5) of the Act.

During the reporting period, the OIG did not encounter any difficulties in obtaining assistance or access to agency records. Consequently, no report was issued by the IG to the agency head in accordance with Section 6(b)(2) of the IG Act.

Audit Resolution

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken. As of the end of this reporting period, there are 17 recommendations that remain open, i.e., management and the OIG agree as to the action that management needs to take but management has not yet taken the action to close them.

Contacting the Office of Inspector General

Employees and the public are encouraged to contact the OIG regarding any incidents of possible waste, fraud or abuse occurring within FMC programs and operations. The OIG telephone number is (202) 523-5863. To report suspected wrongdoing, employees or the public may call the OIG Hotline on (202) 523-5865. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed directly to the Inspector General at <https://www2.fmc.gov/OIGComplaints/>. The OIG link on its webpage enables the sender to remain anonymous.

SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

IG Act Reference	Reporting Requirement	Page(s)
Section 4(a)(2)	Review of legislation and regulations	8
Section 5(a)(1)	Significant problems, abuses and deficiencies	None
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been made	10
Section 5(a)(4)	Matters referred to prosecutive authorities	7
Section 5(a)(5)	Summary of instances where information was refused	10
Section 5(a)(6)	List of audit reports by subject matter	3
Section 5(a)(7)	Summary of each particularly significant report	4
Section 5(a)(8)	Statistical tables showing number of reports and dollar value of questioned costs	13
Section 5(a)(9)	Statistical tables showing number of reports and dollar value of recommendations that funds be put to better use	14
Section 5(a)(10)	Summary of each audit issued before this reporting period for which no management decision was made by the end of the reporting period	None
Section 5(a)(11)	Significant revised management decisions	10
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	9

TABLE I
INSPECTOR GENERAL ISSUED REPORTS
WITH QUESTIONED COSTS

		<u>Dollar Value</u>	
	<u>Number</u>	<u>Questioned Cost</u>	<u>Unsupported Costs</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period?	0	0	0
Subtotal (A + B)	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0
E. Reports for which no management decision was made within six months of issuance	0	0	0

TABLE II
INSPECTOR GENERAL ISSUED REPORTS
WITH RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE

	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	1	1,500
Subtotal (A +B)	1	1,500
C. For which a management decision was made during the reporting period	1	1,500
(i) dollar value of recommendations that were agreed to by management	1	1,500
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
E. Reports for which no management decision was made within six months of issuance	0	0

HOTLINE COMPLAINTS

The success of the OIG mission to prevent fraud, waste and abuse depends on the cooperation of FMC employees and the public.

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR HOTLINE

(202) 523-5865

TO SUBMIT A COMPLAINT ANONYMOUSLY ONLINE

<https://www2.fmc.gov/OIGComplaints/>

TO SUBMIT A COMPLAINT THROUGH THE U.S. MAIL

**Federal Maritime Commission
Office of Inspector General
Room 1054
800 North Capitol Street, NW
Washington, DC 20573**

To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL AND YOU CAN BE ANONYMOUS

**HOWEVER, COMPLAINANTS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY
SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION**