



FEDERAL MARITIME COMMISSION

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To Whom It May Concern:

Attached is the Federal Maritime Commission's response to Executive Order 13,392, "Improving Agency Disclosure of Information", as directed by the implementation guidance provided by the US Department of Justice. Please contact the Office of the Secretary if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryant L. VanBrakle".

Bryant L. VanBrakle
Secretary

Federal Maritime Commission

The Federal Maritime Commission (FMC) is an independent regulatory agency responsible for the regulation of oceanborne transportation in the foreign commerce of the U.S. The principal statutes or statutory provisions administered by the Commission are: the Shipping Act of 1984, the Foreign Shipping Practices Act of 1988, section 19 of the Merchant Marine Act, 1920, and Public Law 89-777. The Commission is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. No more than three members of the Commission may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the chief executive and administrative officer of the agency.

The Commission's organizational units are: Office of the General Counsel; Office of the Secretary, including the Library and Office of Consumer Affairs and Dispute Resolution Services; Office of Administrative Law Judges; Office of Equal Employment Opportunity; Office of the Inspector General; Office of Administration, including the Offices of Financial Management, Human Resources, Information Technology, and Management Services; and Office of Operations, including the Bureaus of Certification and Licensing, Enforcement, and Trade Analysis. These offices and bureaus are responsible for the Commission's regulatory programs or provide administrative support.

In fiscal year 2005, the Commission had a total appropriation of \$19,340,032 and 124 full-time equivalent positions. The majority of the Commission's personnel are located in Washington, DC, with Area Representatives in New York, New Orleans, Los Angeles, South Florida and Seattle.

A. Overall Nature of FOIA Operations

The responsibility for implementing the Freedom of Information Act is located in the Office of the Secretary. The Chief FOIA Officer is Bryant L. VanBrakle (also the Commission's Secretary) and the FOIA Public Liaison is Karen V. Gregory (also the Commission's Assistant Secretary). Depending on the nature of the request, FOIA responses are handled by Office of the Secretary staff with the aid of any necessary Commission personnel. They are then reviewed by the Chief FOIA Officer and every response is reviewed and signed by either the Secretary or the Assistant Secretary prior to being sent to the requester.

The Federal Maritime Commission does not receive a great number of FOIA requests. Over the last five years, the Commission has averaged a total of 53 requests per year. An average of 2.2 requests per year seek expedited processing. During the past five years, the Commission responded to regular requests in an average median of 9.6 working days and expedited requests in an average median of 11.5 days. Last year, the Commission had .15 FTE's responding to FOIA requests at an expenditure of \$16,800. Over the past five years, the Commission has had an average of .24 FTE's responding to FOIAs at an average expenditure of \$24,192.

The FMC receives FOIA requests by regular mail and by e-mail. In addition, we will aid individuals who call the Commission asking for information, and if necessary, explain options for submitting an official FOIA request. If a FOIA request fails to adequately describe records requested or otherwise requires further clarification, the requester is contacted within an average 2-3 days to ensure they have placed a "perfected" request. A "perfected" request is a FOIA request for records which adequately describes the records sought and for which there is no remaining question about the payment of applicable fees. In addition, we will work with the requester to streamline their request so that we can

provide the fastest service for the information they need. Once the Commission has a perfected request, the timeline for a response is 20 working days. The Commission provides a response to requests for expedited review within 10 working days, and, if granted, processes these requests as soon as practicable.

Once the request is perfected, the Chief FOIA Officer determines who in the agency can best provide the information. The request is forwarded to the appropriate office or Bureau, and they collect the information under the guidance of the Chief FOIA Officer. Once the information is collected, the Chief FOIA Officer reviews the information, checks for necessary redaction and/or applicable exemptions, and provides the requester with the response.

B. Areas Selected for Review

Based on the Executive Order and OIP's Guidance, The Commission has determined to review the following areas:

- Affirmative Disclosure
- Proactive Disclosure
- Overall FOIA Website
- FOIA Reference Guide
- Automated Tracking Capabilities
- Electronic FOIA: Receiving and Responding to Requests Electronically
- Multi-track Processing
- Troubleshooting of Existing Tracking Procedures
- Backlog Reduction/Elimination
- Referral System

- Politeness and Courtesy
- Forms of Communication with Requesters
- Cooperation from Agency Personnel
- Training

C. Summary of Results of the Review

Affirmative Disclosure:

Currently the Commission has a FOIA page accessible through a drop down menu on its website homepage. Our FOIA website page: describes the Freedom of Information Act; lists information available without a FOIA request; describes how to file a FOIA request; provides information about our FOIA Requester Service Center; provides a link to FMC FOIA regulations; and provides access to the past nine years of the Commission's Annual FOIA Reports.

However, our website does not contain Frequently Asked Questions about FOIA, which may aid in answering FOIA related questions for those who visit the Commission's website. In addition, while our website contains some frequently requested information, the information is not clearly identified as such, nor located on or directly linked to the main FOIA page.

Proactive Disclosure

In 2005, the FMC redesigned its website to provide more efficient access to Commission information. A great deal of Commission information is currently available on its website, including, but not limited to: yearly and special reports; non-routine issuances in docketed proceedings; docket logs; rulemaking proceedings; investigations; and a variety of databases containing licensing, tariff, and agreement information. In addition, news releases and speeches,

employment opportunities, and basic regulatory information are also available. All statutes and regulations are provided electronically, as well as a variety of forms, user fee information, and links to other websites.

There is, however a gap in the information currently available through its website. Before the use of document scanning technology to provide online copies of information, the Commission provided its official decisions in docketed proceedings in the form of printed bound volumes. Some of that historical information is not yet available online, but the Commission is in the process of compiling and converting those documents into electronic form for access through its website.

Overall FOIA Website

The Commission's FOIA website has been redesigned twice in the last year; first as part of the agency-wide website redesign and second during the first part of the implementation of this Executive Order. A description of what is available on the page is listed above.

The Commission's FOIA link is available through a drop down menu on the homepage, but not directly on its homepage, as it should be. In addition, links should be added to the Commission's website as a whole to direct visitors to the main FOIA page. In addition a Frequently Asked Questions section should be added detailing questions specific to FOIA.

FOIA Reference Guide

While the agency has posted on its website a description of FOIA procedures and how to file a FOIA request, it does not specify a distinct FOIA Reference Guide. A list of information currently posted on its website and additional FAQs should be developed and added to the Commission's website.

Automated Tracking Capability

Currently FOIAs are tracked both electronically and with a backup paper copy. The FOIA information is tracked in a searchable database that notes: the date of entry; whom the request was received from and the date of the letter; the subject matter; the due date; which Commission staff members are involved in the response; and the date it was actually completed. If a requester asks for an update on their request, all of the information necessary to provide an update is available to anyone who may receive the question. Due to the relatively small number of FOIA requests the Commission receives, this system works well to keep the process organized and to respond to any question the requester may have.

Receiving and Responding to Requests Electronically

Currently the Commission's FOIA rules do not provide for e-mailed FOIA requests, but we have accepted them in the past and will continue to do so. Currently, the website directs requesters to send an e-mail to the office of the Secretary if they have any questions. This direction can be clarified on the FOIA page to ensure that requesters have exact instructions on what information they should provide, in order to ensure the quickest response.

Multi-track Processing

The Commission currently does not use a formal, automated multi-track system, due to the relatively low number of FOIA requests received. However, the Chief FOIA Officer and FOIA staff works directly with requesters to ensure that their requests are as precise as possible in order to facilitate faster response times. In appropriate circumstances FOIA requests have and will be processed on a multi-track basis.

Troubleshooting of Existing Tracking Procedures

The current tracking procedures consist of the database (described above) and the paper back up copy. Since the database notes OS staff assigned to the FOIA request, it is easy to put a requester in touch with the person most familiar with his or her request. The database also enables the Commission to keep track of the number of FOIA requests it received and how long it took to respond. In addition, when the FOIA annual report is developed, all of the information in the database is double checked against the hard copies.

Backlog Reduction/Elimination

The Commission does not generally carry a backlog of FOIA requests. Occasionally a request is received that is complex or voluminous enough that extra time is needed to fulfill the request. In these cases the Chief FOIA Officer works with the requester to ensure they are aware of the delay and the reason for the delay. Since this is such an infrequent occurrence and the Commission has never received any complaints about the timeliness in processing FOIA complaints, this process is working adequately.

Referral System

The Commission does receive FOIA requests for information that we do not have. In those cases, the FOIA responder will contact the requester and, if possible, provide them with information on other agencies or organizations that might have the information they seek.

Politeness and Courtesy

The Office of the Secretary is not only the office responsible for processing FOIA requests, but also is the focal point for all documents entering and exiting the Commission and is the Commission's main press office. Most general inquiries and informal and formal complaints are processed through the Office of the Secretary. The inquiries and complaints are received by

regular mail, telephone, and through an e-mail address dedicated to inquiries. Due to these responsibilities to the public, politeness and courtesy are considered extremely important. As a general policy the office is staffed during all working hours with someone able to answer phone inquiries, FOIA or otherwise. Politeness and courtesy in response to the public is a part of the job description and evaluation process for office employees. Due to the added emphasis already placed on these values, the level of politeness and courtesy in response to FOIA requests is very high.

Forms of Communication with Requesters

The Commission communicates with requesters in a variety of ways. If the initial request is a perfected request by mail, then the Chief FOIA Officer will respond with the requested information and a letter explaining any redactions or exemptions that applied. If the request is not “perfected” or the Chief FOIA Officer believes it can be modified to allow for fast-tracking, the staff will contact the requester by e-mail or phone, whichever the requester prefers. The requester may also be directed towards the Commission website for further information. (The website has been discussed in detail above).

Due to the relatively small number of requests received, the FOIA responders are able to have direct contact with the requester when necessary. This always provides the easiest, most efficient, and most convenient way for the requester to clarify what they are requesting and for the Commission to respond in a timely way.

Cooperation from Agency Personnel

Due to the small number of FOIA requests received and the size of the FMC, the Chief FOIA Officer will identify which Commission office is best in the position to answer the request

and contact them directly. He will then work with the staff member to gather the responsive materials and apply any appropriate exemptions or redactions.

Training

The staff participates in the 3-day Department of Justice “FOIA For Attorneys and Access Professionals” training. In addition, staff attends programs offered by the Department of Justice which explain updates and changes to FOIA law.

D. Areas Chosen for Improvement

- Affirmative Disclosure
- Proactive Disclosure
- Overall FOIA Website
- FOIA Reference Guide
- Receiving and Responding to Requests Electronically

E. Improvement Plans

Affirmative Disclosure

1. Addition of FOIA FAQ on website

Goal: Create clear, informative FAQs which explain the Commission’s FOIA request process.

Steps and Time Milestones:

- Create a series of draft questions and answers regarding FOIA procedures.
(December 2006)
- Send FAQs through appropriate approval process. (February 2007).

- Post approved FAQs on the website. (Completed by April 2007).

Measurement of Success: FAQs posted on the website, Commission staff able to refer inquiries to the FAQs and reduce or eliminate the number of inquiries related to the FOIA process or further clarification as to agency FOIA policy.

2. Addition of Frequently Requested FOIA Information to Website

Goal: Make frequently requested information directly accessible to remove the need for a FOIA request for such information.

Steps and Time Milestones:

- Review FOIA requests over past five years to determine what information is frequently requested. (September 2006).
- Compile responsive information. (December 2006).
- Scan and post responses on the website. (Completed by December 2006).

Measurement of Success: Frequently requested information is clearly identified as such and located within or directly linked from the main FOIA page.

Proactive Disclosure

1. Scanning and Posting Historical Commission Documents

Goal: Make more information readily available to the public without filing a FOIA.

Steps and Time Milestones:

- Gather historical Commission Decisions for 1991-1995 (December 2006).
- Scan the documents. (February 2007).
- Post documents to website (Completed by August 2007).

Measurement of Success: All historical Commission decisions are available electronically.

Overall FOIA Webpage

1. Increase Access to FOIA Information Throughout the Site

Goal: Make it easier for the public to find FOIA information on the Commission website.

Steps and Time Milestones:

- Add a FOIA link to the homepage. (August 2006).
- Add links to FOIA information throughout the site. (August 2006).

Measurement of Success: Website statistics show more people accessing FOIA information on the web.

FOIA Reference Guide

1. Create a FOIA Reference Guide

Goal: Put together a FOIA Reference Guide and make it available electronically and in hard copy to increase ease of filing FOIA requests.

Steps and Time Milestones:

- Review Agency FOIA Procedures.
- Draft a FOIA Reference Guide.
- Send draft through agency approval process.
- Scan and post FOIA Reference Guide on the website.
- Have paper copies available by request. (To be Completed December 2007).

Measurement of Success: Increase in the number of correctly filed FOIA requests, leading to more efficient response time.

Receiving and Responding to FOIA Requests Electronically

1. Clarify the Online FOIA Request Process

Goal: To simplify the online FOIA request process on the Commission's FOIA webpage.

Steps and Time Milestones:

- Create simplified instructions for online FOIA requests.
- Add instructions to Commission's FOIA webpage. (To be completed by December 2006).

Measurement of Success: Increased electronic filing of FOIA requests.

F. Time Periods for the Improvement Areas:

1. Areas anticipated to be completed by December 31, 2006

- **Affirmative Disclosure (Identifying and linking to frequently requested information)**
- **Overall FOIA Webpage**
- **Receiving and Responding to FOIA Requests Electronically**

2. Areas anticipated to be completed by December 31, 2007

- **FOIA Reference Guide**
- **Affirmative Disclosure (Developing and posting FOIA FAQs)**

3. Areas anticipated to be completed after December 31, 2007

- **Proactive Disclosure**