

FEDERAL MARITIME COMMISSION



PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR

2005

VISION

Fairness and Efficiency in U.S. Maritime Commerce

MISSION

The FMC's Mission is to :

- *Develop and administer policies and regulations that foster a fair, efficient and secure maritime transportation system;*
- *Protect U.S. maritime commerce from unfair foreign trade practices and market-distorting activities;*
- *Facilitate compliance with U.S. shipping statutes through outreach and oversight;*
- *Assist in resolving disputes.*

This Fiscal Year 2005 Performance and Accountability Report

is published by the

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An electronic version of this report can be found at

<http://www.fmc.gov>

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Federal Maritime Commission at

(202) 523-5800.

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The Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) provides program and financial information that enables the President, Congress, and the public to assess the performance of the agency relative to its mission and the resources entrusted to it. This PAR satisfies the following legislation:

The Federal Managers' Financial Integrity Act of 1982 requires continuous evaluations and reporting of the adequacy of the systems of internal accounting and administrative controls. The Act can be found at the following URL:

<http://www.whitehouse.gov/omb/financial/fmfia1982.html>

The Chief Financial Officers Act of 1990 provides for the production and submission of complete, reliable, timely, and consistent financial information for the use of the Executive Branch of the government and the Congress in the financing, management and evaluation of federal programs. The Act can be found at the following URL:

<http://www.gao.gov/special.pubs/af12194.pdf>

The Reports Consolidation Act of 2000 authorizes agencies to consolidate several reports in order to provide performance, financial and other related information in a more useful manner. The Act can be found at the following URL:

<http://www.cbo.gov/showdoc.cfm?index=2193&sequence=0>

The Federal Financial Management Improvement Act of 1996 requires the assessment of financial systems to ensure they adhere to government -wide financial requirements. The Act can be found at the following URL:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:pub1208.104.pdf

The Inspectors General Act of 1978 (amended) requires that the inspector general make available information on management actions taken in response to IG audits. The Act can be found at the following URL:

http://www.access.gpo.gov/uscode/title5a/5a_2_.html

The Government Performance and Results Act of 1993 requires an annual report that measures the performance results of the agency against the established agency goals. The Act can be found at the following URL:

<http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m.html>

The Government Management Reform Act of 1994 requires the submission of audited financial statements. The Act can be found at the following URL:

<http://govinfo.library.unt.edu/npr/library/misc/s2170.html>

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FEDERAL MARITIME COMMISSION



MANAGEMENT'S DISCUSSION and ANALYSIS

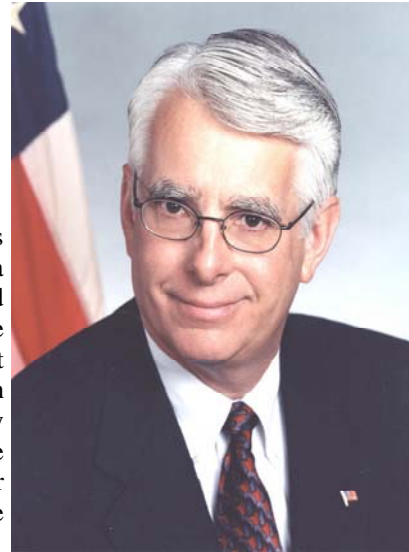


Fiscal Year 2005

MANAGEMENT'S DISCUSSION & ANALYSIS

A MESSAGE FROM THE CHAIRMAN

It is my pleasure to present the Federal Maritime Commission's Performance and Accountability Report for FY 2005. As a transportation/trade regulatory agency, our Vision is to ensure fairness and efficiency in U.S. maritime commerce. Our mandate is to help remove impediments to fair competition - undue controls, influences or non-market barriers imposed by any nation, carrier, cargo owner or intermediary - which can adversely affect U.S. oceanborne trade. We have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports. Thus, we ensure that fair competition exists in the ocean transportation industry while allowing the industry to conduct business as efficiently as possible.



I am pleased to report that the FMC has achieved virtually all of its performance goals, and is positioning its resources with greater precision and effectiveness in order to continue to achieve its mandate within budget resources. In FY 2005, the FMC placed a major emphasis on furthering its interactions with external parties to increase the value of its services and oversight operations. We also strengthened relationships with government agencies responsible for maritime security to facilitate mutual efforts to identify and address potential security threats. Further, we improved our communication with agency stakeholders to increase public awareness of agency programs and policies, and to help address concerns before they become problems. We also improved the management of information by utilizing technology to streamline the flow of information, and to create more sophisticated databases.

One of my responsibilities as the chief administrative officer of the agency is to ensure that our resources are efficiently managed and effectively used. This report provides information which demonstrates the judicious management of funds, and describes our successes in implementing our strategic goals. In addition, the FMC has evaluated its management controls and financial management systems, as required by the Federal Managers' Financial Integrity Act, and I can certify, with reasonable assurance, that the Commission is in compliance with the provisions of that Act.

The FMC is committed to developing and administering policies and regulations that foster a fair, efficient and secure maritime transportation system, to protecting U.S. maritime commerce from unfair foreign trade practices and market-distorting activities, to facilitating compliance with U.S. shipping statutes through outreach and oversight, and to assisting in resolving disputes. The FMC is proud of its FY 2005 accomplishments and looks forward to providing high-quality service to the American public in future years.

Sincerely,

A handwritten signature in blue ink that reads "Steven R. Blust". The signature is written in a cursive, flowing style.

Steven R. Blust
Chairman, Federal Maritime Commission

MANAGEMENT'S DISCUSSION and ANALYSIS



Introduction

This Performance and Accountability Report represents the completion of the Federal Maritime Commission's ("FMC" or "Commission") program and financing management process for Fiscal Year 2005, which began with mission and program planning, continued with the formulation and justification of FMC's budget submission to the President and Congress, through budget execution, and ended with a report of our program performance and the use of resources. This report was prepared pursuant to the requirements of the Chief Financial Officers Act, as amended by the Reports Consolidation Act, and OMB Circular No-A136 (Revised), and covers the Commission's activities from October 1, 2004, through September 30, 2005.

Chapter 1, our Management's Discussion and Analysis, provides an overview of the FMC. It consists of nine sections: *Introduction* describes the agency, its mission and structure; *Regulatory Responsibility* describes its regulatory mandate; *Future Challenges* includes information about the changes in the maritime industry; *Program Performance Overview* reports on the FMC's success in achieving its strategic goals; *President's Management Agenda* describes activities related to the relevant initiatives; *Financial Performance Overview* discusses the FMC's financial position and audit results; *Financial Statement Highlights* gives an overview of the major financial statements; *Improper Payments Information Act* provides a breakdown of any improper payments made by the agency and efforts to collect improper disbursements; and *Systems, Controls, and Legal Compliance* discloses the FMC's compliance with certain legal and regulatory requirements.

About the FMC

The FMC is an independent regulatory agency which administers the Shipping Act of 1984 ("1984 Act" or "Shipping Act") as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"); section 19 of the Merchant Marine Act, 1920 ("1920 Act"); the Foreign Shipping Practices Act of 1988 ("FSPA"); and Public Law ("P.L.") 89-777 (passenger vessel certification). The Commission: monitors the activities of ocean common carriers, marine terminal operators, conferences, ports and ocean transportation intermediaries (non - vessel - operating common carriers and ocean freight forwarders) who operate in the U. S. foreign commerce to ensure they maintain just and reasonable practices; maintains a trade monitoring and enforcement program designed to assist regulated entities in achieving compliance and to detect and appropriately remedy malpractices and violations of the prohibited acts set forth in section 10 of the 1984 Act; monitors the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in U. S. trades, and imposes remedial action as appropriate pursuant to section 19 of the 1920 Act or FSPA; enforces special regulatory requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements and service contracts pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility and accuracy as required by OSRA. The Commission also issues licenses to qualified ocean transportation intermediaries in the U. S., ensures that all ocean transportation intermediaries ("OTIs") are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators demonstrate adequate financial responsibility in case of nonperformance or injury to passengers.

Organization

The FMC 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 FMC 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 FMC's organizational units consist of: Offices of the Commissioners; Office of the General Counsel ("OGC"); Office of the Secretary ("OS"), including the Library and Office of Consumer Affairs and Dispute Resolution Services ("CADRS"); Office of Administrative Law Judges ("ALJ"); Office of Equal Employment Opportunity ("EEO"); Office of the Inspector General ("OIG"); Office of Operations ("OPS"), including the Bureaus of Certification and Licensing ("BCL"), Enforcement ("BOE"), and Trade Analysis ("BTA"); and Office of Administration ("OA"), including the Offices of Budget and Financial Management ("OBFM"), Human Resources ("OHR"), Information Technology ("OIT"), and Management Services ("OMS"). The majority of FMC personnel are located in Washington, DC., with Area Representatives in New York, New Orleans, Los Angeles, Seattle, and South Florida.

In FY 2005, the FMC's appropriation totaled \$19,340,032 with 124 full-time-equivalent staff.



Regulatory Responsibility

The FMC's regulatory responsibilities include:

- **Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations, or business practices that harm U.S. shipping interests or ocean trade.**
- **Reviewing operational and pricing agreements among ocean common carriers and marine terminal operators ("MTOs"), to ensure that they do not have excessively anticompetitive effects.**
- **Reviewing and maintaining a system containing the service contracts between ocean common carriers and shippers, and service arrangements between non-vessel-operating common carriers ("NVOCCs") and shippers, and using this system to guard against anticompetitive practices and other unfair prohibited acts.**
- **Ensuring that common carriers' rates and charges are accessible to the shipping public in private, electronically accessible systems.**
- **Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.**
- **Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charters to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.**
- **Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.**
- **Ensuring that OTIs maintain sufficient financial responsibility to protect the shipping public from financial loss.**
- **Investigating discriminatory rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.**

The FMC is authorized by the FSPA, section 19 of the 1920 Act, and section 13(b)(6) of the 1984 Act, to take action to ensure that the foreign commerce of the U.S. is not burdened by non-market barriers to ocean shipping. The FMC may take countervailing action to correct unfavorable shipping conditions in U.S. foreign commerce and may impose penalties. The FMC may address actions by carriers or foreign governments that adversely affect shipping in the U.S. foreign oceanborne trades including the intermodal operations of carriers or the operations of OTIs, or that impair access of U.S.-flag vessels to ocean trade between foreign ports.

The 1984 Act is applicable to the operations of common carriers and other persons engaged in U.S. foreign commerce. It exempts agreements that have become effective under the 1984 Act from the U.S. antitrust laws, as contained in the Sherman and Clayton Acts. The FMC reviews and evaluates agreements to ensure that they do not exploit the grant of antitrust immunity, and to ensure that agreements do not otherwise violate the 1984 Act or result in an unreasonable increase in transportation cost or unreasonable reduction in service.

MANAGEMENT'S DISCUSSION and ANALYSIS



Regulatory Responsibility (continued)

In addition to monitoring relationships among carriers, the FMC is also responsible for ensuring that individual carriers, as well as those permitted by agreement to act in concert, fairly treat shippers and other members of the shipping public, in accordance with the 1984 Act's prohibition against undue discrimination. The 1984 Act also requires all carriers to make their rates, charges and practices available in automated tariff systems that must be available electronically to the public. NVOCCs may assess the rates and charges published in their tariffs or may offer service arrangements with shipping customers. Ocean common carriers are permitted to enter into service contracts with their shipper customers. Such contracts are filed electronically with the FMC in our Internet-based system, and are provided confidential treatment by the FMC as required by the Act. The FMC does not have the authority to approve or disapprove general rate increases ("GRIs") or individual commodity rate levels in the U.S. foreign commerce, except with regard to certain foreign government-owned or -controlled carriers.

P. L. 89-777 requires the operators of passenger vessels with 50 or more berths who embark passengers at U.S. ports to establish financial coverage to indemnify passengers in cases of death, injury, or nonperformance of transportation. The FMC certifies such operators upon the submission of satisfactory evidence of financial responsibility. The FMC ensures that all OTIs operating in the foreign commerce of the U.S. have established sufficient financial responsibility to protect shippers from financial loss. Additionally, the FMC licenses all U.S. OTIs.

The FMC carries out its regulatory responsibilities by conducting informal and formal investigations. It holds hearings, considers evidence and renders decisions, and issues appropriate orders and implementing regulations. The FMC also adjudicates and mediates disputes involving the regulated community, the general shipping public, and other affected individuals or interest groups.

The FMC also carries out a management and support function for information technology, financial management, human resources, and administrative support.

The FMC oversees approximately 5,200 regulated persons (passenger vessel operators, conferences, OTIs, NVOCCs, etc.).

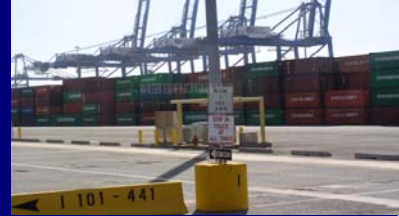
The FMC has a new, improved, easy-to-navigate website which contains more information concerning the agency's activities and responsibilities. Please visit us at www.fmc.gov.

Future Challenges

International trade remains dependent upon an efficient ocean transportation system. Yet the ocean shipping industry's business processes and security requirements have undergone significant changes in recent years. The industry continues to face challenges related to port and maritime security, port congestion, industry consolidation and dynamic economic conditions. As the industry restructures to adapt to these changes, it is imperative for the FMC to ensure that its oversight produces a competitive trading environment in U.S. ocean commerce that is in harmony with, and responsive to, international shipping practices, and encourages fair and open commerce.

The Commission has launched a comprehensive review of its regulatory initiatives to ensure that agency resources are utilized in a manner best suited to accomplish statutory obligations with a minimum of government intervention and regulatory cost. In addition, cooperative working arrangements with front-line security agencies remain in place. Effective use of emerging information technologies continues to facilitate our efforts.

MANAGEMENT'S DISCUSSION and ANALYSIS



Program Performance Overview

The FMC, like other Federal agencies, provides an annual performance plan to Congress, pursuant to the Government Performance and Results Act (“GPRA”). The FMC has organized its performance goals to achieve its strategic goals. The FMC’s FY 2003-FY 2008 Strategic Plan is available on the FMC’s website. The complete FY 2005 Program Performance Report is contained in *Chapter 2, Program Performance*. Briefly, in FY2005, the Commission focused on furthering its interactions with external parties to increase the value of its services and oversight operations, and on strengthening relationships with government agencies responsible for maritime security to facilitate mutual efforts to identify and address potential security threats. This includes improving communication with the media, industry representatives, and other stakeholders to increase public awareness of Commission programs and policies, and to help address concerns before they become problems. In addition, we broadened our efforts to implement the President’s Management Initiative to expand electronic government. We improved the management of information by utilizing technology to streamline and simplify the delivery of services and information to regulated entities, other government agencies, and the public, and we created more sophisticated databases to allow staff to more effectively identify regulated activities, complaints, and potential abuses. Also, we implemented an IT Capital Planning Investment Control Process for the agency’s major IT investments. Overall, we are pleased with the success we achieved in addressing our stated goals and objectives.

Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote one of the FMC’s strategic goals, and the processes or activities required to achieve the goals are identified. The agency then specifies the outcomes it believes will result from accomplishing each stated goal, and agrees on performance indicators as the quantifiers of performance. Finally, performance measures are established for evaluation of achievement of performance goals. Taken together, performance goals under each strategic goal are designed to enhance and further those goals each fiscal year, bringing the agency closer to its ideal of full achievement of its strategic goals.

President’s Management Agenda

The President’s Management Agenda is intended to make Government more citizen-centered, results-oriented, and market-based. The five initiatives are: 1) Strategic Management of Human Capital; 2) Competitive Sourcing; 3) Improved Financial Management, 4) Expanded E-Government, and 5) Budget and Performance Integration. The FMC has achieved some successes in its agenda to address these initiatives. *Chapter 2, Program Performance*, discusses our activities in these important areas in more detail.

A brief overview of the agency’s successes includes the following.

Strategic Management of Human Capital – In FY 2004, the FMC implemented a realignment which has improved operations and provides a framework for the agency to more efficiently and effectively implement the agency’s strategic goals. We continue to assess our realignment to ensure that we are structured to achieve optimal effectiveness. We also began a wholesale review of our performance management system to ensure that it is a viable tool for enhancing skills, guiding career development, and assessing agency and employee progress. The agency also offers a range of flexible work options and employee-friendly and family-friendly programs and policies. Managers are encouraged to review their staff’s critical skills and to target training to improve expertise.

Budget and Performance Integration - The FMC made completing budget and performance integration a key performance goal in FY 2005, and was successful in achieving it. In FY 2005, we also began an agencywide assessment of our strengths, weaknesses, opportunities and threats to assist us in identifying our initiatives and priorities for the future, along with the resources necessary for successful operations. The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency’s planning and budgeting activities.

MANAGEMENT'S DISCUSSION and ANALYSIS



President's Management Agenda (continued)

In the FMC's FY 2005 Annual Performance Plan, performance goals were aligned with the agency's strategic goals for the first time, a major change from previous plans which aligned performance goals by agency program.

Competitive Sourcing - The FMC submitted its FY 2005 Federal Activities Inventory Reform Act Inventory to OMB in June 2005. The Inventory identifies 78 of the agency's 133 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Expanded Electronic Government - The FMC has planned and continues to implement the expansion of electronic government. A major accomplishment during FY 2005 was the unveiling of the agency's new, expanded, updated and more user-friendly public website. In FY 2005, the FMC's SERVCON system was re-written to provide greater functionality and increased security features. Network and security upgrades were effected to provide an upgraded platform for the delivery of electronic services to agency staff and stakeholders.

The FMC also developed its Enterprise Architecture to formally define its IT functionality. Further, the FMC has implemented a Capital Planning and Investment Control process, and has formalized its Systems Development Life Cycle process.

Improved Financial Performance - The FMC received an unqualified opinion on its financial statements in FY 2005, for the second straight year. The FMC will continue to strive to achieve unqualified audit opinions.

Financial Performance Overview

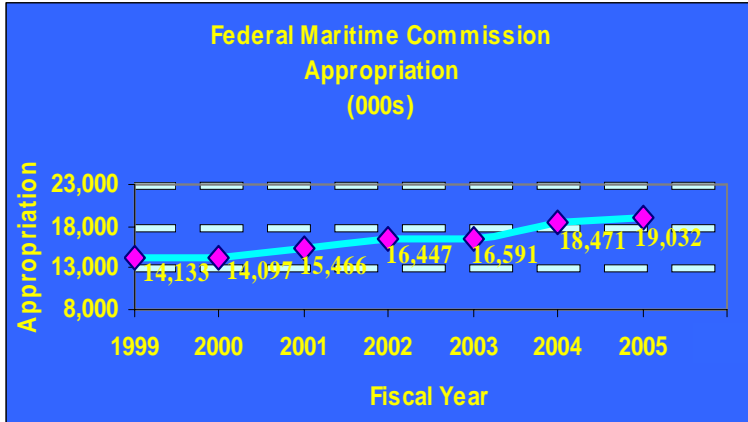
As of September 30, 2005, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds in place to ensure obligations did not exceed budget authority. The FMC's accounting services provider, the Bureau of the Public Debt ("BPD"), prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and the Office of Management and Budget Circular A-136, *Financial Reporting Requirements (Revised 8/23/2005)*.

MANAGEMENT'S DISCUSSION and ANALYSIS



Sources of Funds

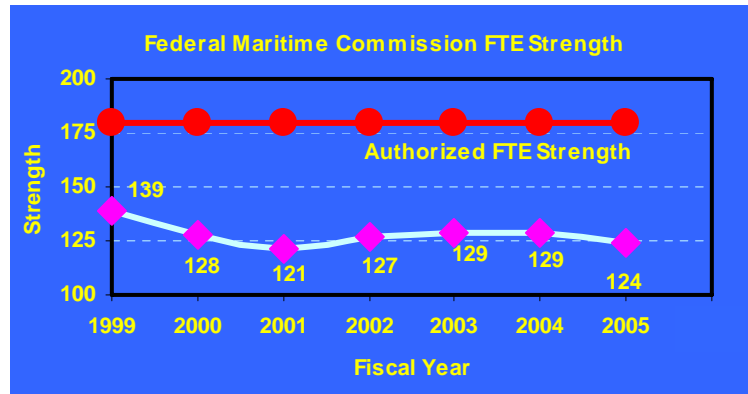
The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's total new budget authority for fiscal year 2005 was just over 19 million. This represents a net increase in budget authority over fiscal year 2004 of 561 thousand dollars. 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 are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter 3, Auditors' Reports and Financial Statements*.



Personnel Strength History

As the chart demonstrates, the FMC's actual FTE level has fluctuated slightly since 1999, with a decline in FTEs during the early 2000s, followed by modest growth and recent small fluctuations of the FTE level. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure the effective accomplishment of our mission.

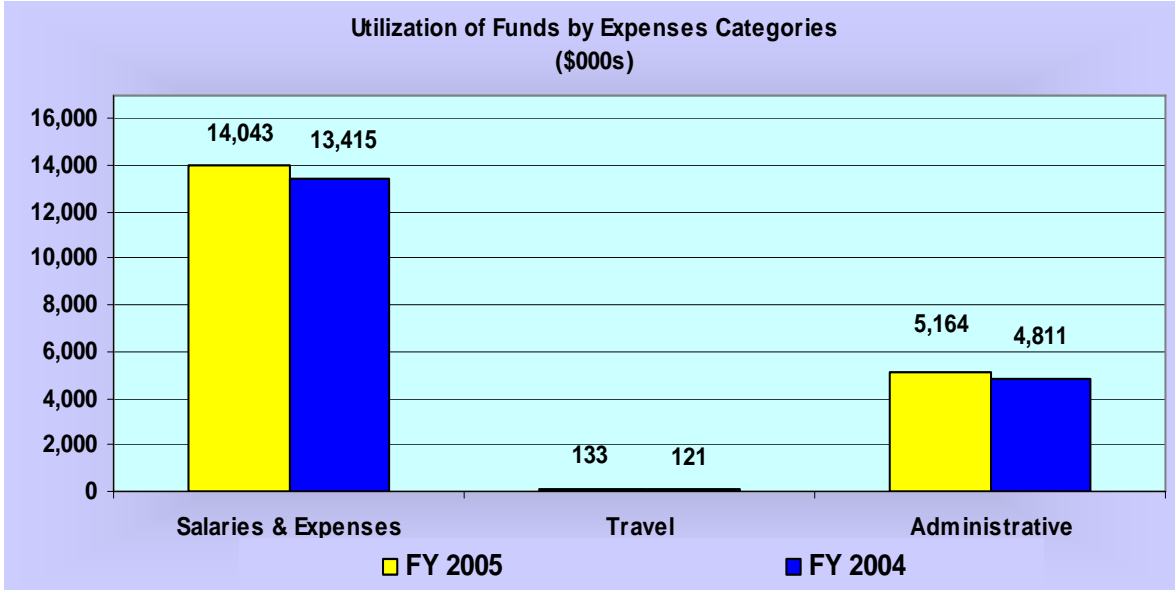
In recent years, the Commission has been authorized a total of 180 full-time-equivalent positions. Due to appropriation levels, the Commission has been required to maintain full-time personnel levels much lower than authorized.



MANAGEMENT'S DISCUSSION and ANALYSIS

Uses of Funds by Expense Category

In FY 2005, the FMC incurred new obligations of \$19.3 million, which was a \$993 thousand dollars increase over fiscal year 2004. Approximately 72.6% of the total appropriation was used for salaries and benefits. Of the remaining budget authority, .7% was used for Commission travel expenses and the remaining 26.7% was used for administrative expenses also known as operating expenses (e.g., rent, furniture, printing, maintenance). The unobligated authority balance of \$1,302 will remain active for four years to service FMC-established requirements.



Audit Results

The FMC received an unqualified opinion on its FY 2004 financial statements from the auditing firm of Clifton Gunderson LLP under contract through the FMC's Inspector General. For FY 2005, the FMC was again awarded an unqualified opinion on its financial statements. Comparative statements can be located in *Chapter 3, Auditors' Reports and Financial Statements*.

Financial Statement Highlights

The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the entity in accordance with the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

The FMC's financial statements summarize the financial position and financial activity of the agency. The financial statements, footnotes and the remainder of the required supplementary information appear in their entirety in *Chapter 3, Auditors' Report and Financial Statements*. A brief analysis of the principal statements follows.

MANAGEMENT'S DISCUSSION and ANALYSIS



Analysis of the Balance Sheet

The FMC's assets in fiscal year 2005 were \$2,269,606 as of September 30, 2005. This represents an increase over fiscal year 2004 of \$307,418. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2005		
	FY 2005	FY 2004
Fund Balance with Treasury	\$2,217,146	\$1,849,004
Accounts Receivable	\$2,021	\$749
Capital Assets	\$50,439	\$112,435
Other	\$0	\$0
Total Assets	2,269,606	1,962,188

The Fund Balance with Treasury represents the FMC's largest asset of \$2,217,146 as of September 30, 2005. This is an increase of 19.9% over fiscal year 2004 and represents 97.7% of the agency's total assets. The Fund

Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2005, was at \$2,021.00. This is a 169% increase over fiscal year 2004, and accounts for .09% of the FMC's total assets.

Capital Assets, also known as Property, Plant and Equipment, accounts for 2.21% of the FMC's total assets as of September 30, 2005. The "Net" value of \$50,439 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled \$1,957,549 as of September 30, 2005. The accompanying table depicts an increase of \$252,201 total liabilities over fiscal year 2004. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2005. The FMC is not in receipt of a billing from the various vendors as of the close of fiscal year 2005. Federal Employee Benefits represents accrued salaries and liabilities that are not funded by budgetary resources. These liabilities represent future workman's compensation, and accrued annual leave that remains on the books. The Federal budget process does not recognize future benefits for today's employees, however, these liabilities will be recognized in future budget cycles as they are paid.

Summary of Liabilities as of September 30, 2005		
	FY 2005	FY 2004
Accounts Payable	\$89,197	\$102,935
Payroll Taxes Payable	\$82,970	\$71,980
Federal Employee Benefits	\$1,775,252	\$1,520,052
Accrued Liabilities	\$10,130	\$10,381
Total Liabilities	\$1,957,549	\$1,705,348

Net Position is the difference between total assets and total liabilities. The total net position for fiscal year 2005 is an increase of \$55,217 from fiscal year 2004. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2005. Cumulative Results of Operations represents the net results of all operations of the FMC. The decrease in Cumulative Results is due mainly to the net decrease in Capital Assets as of September 30, 2005.

Net Position Summary as of September 30, 2005		
	FY 2005	FY 2004
Unexpended Appropriations	\$1,231,683	\$1,124,548
Cumulative Results of Operations	(\$919,626)	(\$867,708)
Total Net Position	\$312,057	\$256,840

MANAGEMENT'S DISCUSSION and ANALYSIS



Analysis of Net Cost

The analysis of Net Costs presents the net cost of FMC's five Commission Programs as identified in the FMC's Annual Report. The five agency programs are Formal Proceedings, Inspector General, Equal Employment Opportunity, Operations and Administration. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations and/or programs. Net Costs compared to Budgetary Resources can be found in *Chapter 3, Auditors' Report and Financial Statements*.

Summary of the Statement of Net Cost as of September 30, 2005		
	FY 2005	FY 2004
Intragovernmental Net Costs	\$7,140,719	\$6,248,754
Net Costs With the Public	\$13,270,708	\$12,635,332
Net Cost of Program Services	\$20,411,427	\$19,064,086

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position, found on page nine, reports the change in the agency's net position during the reporting period. The statement is a summary of two factors, Unexpended Appropriations and Cumulative Results in Operations. The increase of \$55,217 from fiscal year 2004 to fiscal year 2005 is due principally to the net change in Cumulative Results of Operations due to further depreciation of Capital Assets and an increase in unexpended appropriations.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources and the status of those resources at the end of the reporting period. The statement shows the relationship between budgetary resources and the status of the resources. The total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter 3, Auditors' Report and Financial Statements*. For fiscal year 2005, the FMC had total budgetary resources available of \$19,622,729. This represents a 5.6% increase over fiscal year 2004 budgetary resources available of \$18,581,200. For fiscal year 2005, the Statement of Budgetary Resources shows the FMC had incurred obligations of \$19,441,873, representing 99% of funding available, and had an unobligated balance of \$180,856.

Summary of the Statement of Budgetary Resources as of September 30, 2005		
	FY 2005	FY 2004
Total Budgetary Resources	\$19,622,729	\$18,582,525
Obligations Incurred	\$19,441,873	\$18,391,284
Unobligated Balance	\$180,856	\$191,241
Status of Budgetary Resources	\$19,622,729	\$18,581,200

Analysis of the Statement of Financing

The Statement of Financing is intended to provide a connection between accrual-based information (financial accounting) contained within the Statement of Net Cost and the obligation-based information (budgetary accounting) contained within the Statement of Budgetary Resources. The Statement of Financing provides a reconciliation between the budgetary and proprietary accounting information within the financial system and ensures that they are in balance. Non-budgetary resources, costs not requiring resources, and financing sources yet to be provided are deducted from the budgetary obligations. This balance is then reconciled against the Net Cost of Operations.

MANAGEMENT'S DISCUSSION and ANALYSIS



Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2005 and Agency Plans for FY 2006—FY 2008

- I. The Federal Maritime Commission has not identified any program that in and of itself constitutes a high-risk for improper payments. Therefore, the FMC considers all of its payments to fall within the realm of high-risk. As such, the FMC has instituted a separation of duties concerning payments that has been very successful in curtailing any improper payments. The National Finance Center (“NFC”) became the agency’s payroll provider in 2002 and is responsible for monitoring and reporting on any payroll-related payments. Any overpayments made to an FMC employee by the NFC on behalf of the FMC are offset by NFC. In FY 2005, the FMC had one travel-related overpayment of \$15.00. The FMC received two improper Intergovernmental Payments and Collections (“IPAC”) collections in the amount of \$7,237.05, each made against the Commission’s Agency Location Code (“ALC”). The collecting agency was not a trading partner of the FMC and the improper IPAC collections have since been reversed.
- II. The FMC did not use a statistical sample to conduct its improper payment rate. The sample contains one hundred percent of all disbursements made by the FMC. This was the case for all programs.
- III. In order to reduce the rate of improper payments, the FMC will continue to monitor all payments to strive for a zero dollar improper payment figure. To this end, the FMC will ensure that there are sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. The cause of the overpayments resided in improper IPAC collections made against the Commission’s ALC for services that were not rendered to the FMC, and a double payment for local travel expenses. The improper IPAC collections were reversed and the FMC is in the process of collecting the travel overpayment. The FMC will continue to monitor all disbursements made on its behalf to ensure payments are valid and proper.
- IV. The table below represents the improper payments made by the FMC in FY 2005 with percentage forecasts through FY 2008. To reflect a total percentage, the decimal point would need to be carried out to the 9th position. The same is true to reflect as a percentage the \$15.00 overpayment in the Inspector General Program and the improper IPAC collections identified in the Administration Program. Therefore, FY 2005 exhibits 0% in improper payments.

Improper Payment Reduction Outlook FY 2005 - FY2008 (Millions)						
Program	FY05 Outlays	FY05 IP %	FY 05 IP \$	FY 06 %	FY07 %	FY 08 %
Formal Proceedings	6.00	0.0000	0.0000	0.00	0.00	0.00
Inspector General	0.00	0.0000	0.0000	0.00	0.00	0.00
Equal Employment Opportunity	0.00	0.0000	0.0000	0.00	0.00	0.00
Operations	8.00	0.0000	0.0000	0.00	0.00	0.00
Administration	4.00	0.0000	0.0145	0.00	0.00	0.00
Totals	18.00	0.0000	0.0145	0.00	0.00	0.00



Improper Payments Information Act (continued)

- V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. When an invoice is received it is first verified as a valid invoice belonging to the agency. The invoice is then processed by the OMS to identify the proper purchase order the payment is to be expensed against. The OBFM then processes the invoice against the purchase order to ensure that there are sufficient funds available on the purchase order to make the payment. If there are insufficient funds on the purchase order, a request is made to modify the purchase order to increase funding. Once the payment authorization has been processed, it is verified by a second member of the finance office. From there the payment request is forwarded to the BPD for processing. When the payment is loaded into the Oracle database, a final funds availability check is made by the financial system against the fund controls set for the FMC. Currently the fund controls are set to the summary appropriation level.

The receipt of an invalid IPAC collection must be processed as a payment for the reason that the funds have already been moved from the Treasury General Fund as a disbursement against the FMC's ALC. The internal controls in place remain unchanged, with a closer scrutiny paid to all invoices and subsequent payments. The agency was able to have the improper IPAC collections in the amount of \$14,474.10 reversed and credited back to the General Fund. We are currently in the process of collecting the \$15.00 overpayment made against a local travel voucher.

- VI. The Chairman, as the Chief Administrative Officer of the FMC, is ultimately responsible for the efficient and effective utilization of the authority granted the agency by Congress. The Chairman has delegated financial responsibility to the Director, OBFM. The Director of OBFM has the responsibility to ensure that all disbursements made by BPD on behalf of the FMC are legitimate expenses of the agency and that there are sufficient funds available. The OBFM is responsible for reducing and recovering improper payments, and keeps senior agency officials apprised of all relevant activities.
- VII. a. The FMC does not have an in-house information system to help reduce improper payments. The agency utilizes the infrastructure and financial system maintained in Parkersburg, WV by BPD.
- b. In fiscal year 2005, the FMC requested funding to maintain the contract between the FMC and BPD for financial support and platform access to the Oracle database through Oracle's Discoverer portal.
- VIII. There are no statutory or regulatory barriers that limit the agency's ability to take corrective actions to address any improper payments.
- IX. The current IPAC system does not allow an agency to refuse a collection against its ALC through the general fund it deems improper. The end result is a requirement to make the payments during the accounting period in which the collection was made and reversing the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency, therefore reducing the number of improper payments.

MANAGEMENT'S DISCUSSION and ANALYSIS



Systems, Controls, and Legal Compliance

This section provides information on FMC's compliance with the:

- Federal Managers' Financial Integrity Act
- Federal Financial Management Improvement Act
- Prompt Payment Act
- Debt Collection Improvement Act
- Biennial Review of User Fees
- Performance Measure Summary
- Inspector General Act

Federal Managers' Financial Integrity Act

The Federal Managers' Financial Integrity Act ("FMFIA") requires that agencies establish controls that reasonably ensure that obligations and cost comply with applicable law; assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures are properly recorded and accounted for. It requires the agency head to provide an assurance statement of the adequacy of management controls and conformance of financial systems with Government standards.

In his Message earlier in this document, the Chairman provided his annual assurance statement. This statement was based on various sources and included management knowledge gained from the daily operation of agency programs and reviews, discussions with senior managers who together comprise the agency's Senior Policy Group, audits of financial statements, annual performance plans, and Inspector General's reports, among other sources. The Senior Policy Group is comprised of all SES-level senior executives, including the Director of Operations, the General Counsel, and the agency's Chief Financial Officer, among others. Additionally, the Chairman meets regularly with, and receives regular reports from, the FMC's Inspector General.

Management control deficiencies, when identified, are addressed at the highest management levels within the agency. For instance, corrective actions for material weaknesses identified in the agency's information technology area are overseen directly by the agency's Chief Information Officer.

FY 2005 FMFIA Results

The Chairman of the FMC determined that, as of September 30, 2005, the management controls of the FMC provide reasonable assurance that the objectives of the FMFIA are being met, and that the FMC, as a whole, is in compliance with section 2 of the FMFIA. The FMC's financial management systems also are in substantial compliance with the objectives of the FMFIA, and the Commission is in compliance with section 4 of the FMFIA.

During the fiscal year, the FMC mitigated one material weakness which was first identified in a previous fiscal year. This weakness concerned the adequacy of the agency's information technology office to support the agency's mission in the areas of management, operations and technology. Much progress had been made to address this weakness in previous fiscal years, however some issues remained to be addressed during FY 2005. The final corrective actions necessary to correct this deficiency were completed during the fiscal year. The FMC has strengthened its IT management, operations, and technology infrastructure and staffing, including finalizing numerous standard operating procedures, completing procedures for system life cycle development, implementing an improved Help Desk system, improving staff skill levels, and hiring an IT Security Officer, among other things. Additionally, the FMC made an extensive commitment during recent fiscal years to improving its IT infrastructure by upgrading network security, stabilizing the network environment, replacing all personal computers, adopting a more robust web content manager, and otherwise improving the posture of its IT infrastructure.

MANAGEMENT'S DISCUSSION and ANALYSIS



FY 2005 FMFIA Results (continued)

The FMC is working to correct two material weaknesses first identified in a previous fiscal year. These material weaknesses are in the information technology program, and the FMC has made substantial progress to correct them, however a few issues remain before they can be considered fully corrected.

The first of the two material weaknesses is the quality of certification and accreditation (“C&A”) documents and security self-assessments. The FMC hired an IT Security Officer who has conducted a review of the four systems and developed updated C&A documents for them: SERVCON, FMC Applications, FMC Form-1, and FMC Network. SERVCON and FMC Applications are operating under an Interim Authority to Operate until disaster recovery testing can be accomplished, at which time C&A documents can be certified. With respect to the remaining two systems, certain security issues have been discovered in FMC Form-1, and these issues impact on FMC Network. Major infrastructure and security upgrades have been implemented on the FMC Network. The one outstanding security issue remaining is FMC Form-1, which resides on the FMC network. Senior management has determined that, rather than fix the current FMC Form-1, a re-write of the application is required to resolve the deficiencies.

It is expected that a contract to re-write FMC Form 1 will be effected early in FY 2006, and that certification of these two systems will be completed once the re-write is completed and disaster recovery testing can be accomplished. Disaster recovery testing for all systems is expected to be completed early in FY 2006, at which time the material weakness is expected to be mitigated.

The second of the two material weaknesses is the lack of assurance that a contractor-operated system (SERVCON) is configured and operated under Federal security guidelines. The FMC has terminated the contract to operate the system off-site, transferred management of SERVCON to FMC in-house staff, and a re-write of the system's security and password features has been completed. Disaster recovery testing is expected to be accomplished early in FY 2006, at which time this weakness will be mitigated.

The existence of these material weaknesses does not preclude a statement of overall compliance, as the weaknesses are not sufficiently serious to prevent reasonable assurance of overall compliance.

Federal Financial Management Improvement Act

The Federal Financial Management Improvement Act requires agencies to implement and maintain systems that comply substantially with: Federal financial management system requirements; applicable Federal accounting standards; and the standard general ledger at the transaction level. The Act requires the agency head to determine whether the agency's financial management systems comply with the Federal Financial Management Improvement Act and to develop remediation plans for systems that do not comply.

FY 2005 Federal Financial Management Improvement Act Results

The Chairman of the FMC determined that, as of September 30, 2005, FMC's financial management systems were in substantial compliance with the Federal Financial Management Improvement Act. In making his determination, the Chairman considered the results of audits conducted by outside auditors in successive fiscal years, in addition to Inspector General reports, among other resources.

Prompt Payment Act

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2005, the FMC maintained a percentage of on-time payments at 94.2%. The FMC will continue to strive towards 100% on-time payments in future years. The FMC has maintained a 100% on-time electronic/credit-card payment to its vendors.

MANAGEMENT'S DISCUSSION and ANALYSIS



Debt Collection Improvement Act

The Debt Collection Improvement Act enhances the ability of the Government to service and collect debts. The Act centralized the collection of non-tax delinquent debt owed to the government. The collection of delinquent debts is conducted by the Financial Management Service through the Treasury Offset Program where the names and taxpayer identification numbers ("TIN") are matched against the TINs of recipients of government payments. The balance owed the government is deducted or offset from the payment to the entity to satisfy the debt. All Office of Personnel Management ("OPM") retirement, vendor, IRS refunds, Social Security Benefits, and some federal salary payments are being offset. Federal agencies are required to refer delinquent accounts in excess of 180 days to Treasury for collection. The goal of the FMC is to minimize the amount of delinquent debt owed to the agency.

Biennial Review of User Fees

The Chief Financial Officers Act requires agencies to conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2005, the FMC published its revised fees subsequent to its biennial review. The fees are posted on the FMC's website.

Performance Measure Summary

The FMC does not have an in-house financial accounting system, and as a small agency does not receive a Performance Measure Summary from the Department of the Treasury. The agency receives accounting services from BPD located in Parkersburg, WV. The Commission verifies and reconciles all financial statements and reports prior to submission, and has remained in compliance with all reporting thresholds including FACTS I (Federal Agencies' Centralized Trial-Balance System) reporting, timely reporting, and reconciliation of any financial statement differences.

Inspectors General Act

The FMC has a very good record in resolving and implementing open audit recommendations presented in its Inspector General's reports. Section 5(b) of the Inspector General Act requires agencies to report on final actions taken on Inspector General audit recommendations. More information can be found in *Appendix C*.

Briefly, during fiscal year 2005, the Inspector General completed the following audits/inspections:

- Audit of Procurement of Vendor Training Services
- Audit of Controls Over Agency Property
- Audit of Agreement Filings
- FY 2004 Financial Statements
- SERVCON Review

The Inspector General's reviews disclosed no instances of questioned costs nor were any recommendations made that funds be put to better use, nor were any material weaknesses reported. The FMC has addressed a number of recommendations from these reviews, and it is anticipated that the few which remain outstanding will be completed early in FY 2006.

During FY 2005, the agency worked diligently to correct two material weaknesses which had been identified in a previous fiscal year. It is anticipated that final corrective action on both material weaknesses will be completed in FY 2006. Further, one material weakness identified in a previous fiscal year was mitigated.

CHAPTER TWO



PROGRAM PERFORMANCE



Fiscal Year 2005

PROGRAM PERFORMANCE



Introduction

This chapter presents information on the performance of the FMC during FY 2005. The FMC's performance measurement system is discussed, along with the alignment of resources to strategic goals, and a summary of performance relative to specific performance goals. Following the discussion of performance goals, this chapter discusses the FMC's efforts to address the President's Management Agenda.

FMC's Performance Management System

The FMC's performance management system includes both strategic goals and performance goals and measures. The strategic goals, taken together, represent the FMC's mission and reflect the overall outcomes to be achieved. The performance goals focus on outcomes which are contributors to achieving the agency's strategic goals. The performance measures associated with each performance goal provide benchmarks for measuring how effectively the FMC is achieving its goals.

Aligning Resources to Goals

To achieve the FMC's strategic goals, both steady state activities and fiscal year-specific performance goals have been developed. The FMC plans and budgets for its program activities during each fiscal year to ensure appropriate resources (funds and FTEs) are available to achieve its performance goals and accomplish its steady state activities.

Future Improvements in Performance Management

As a small agency, OMB agreed that the FMC should use an appropriately scaled mechanism for the GPRA process and development with a framework which would be productive, yet less resource-intensive. Nonetheless, the FMC strives to ensure its performance plans present relevant information clearly and concisely, and to be as detailed as possible while avoiding minutiae.

In FY 2005, the FMC's performance plan for the first time allocated all agency resources, and linked the agency's performance goals, directly to its strategic goals instead of its budget program activities. This demonstrates the FMC's substantial progress in integrating performance management and budget processes, as it fosters efforts to link planning, budgeting and performance more effectively. Future performance reports will continue to integrate performance management and budget by aligning agency resources with strategic goals.

Program Activities

Overview

In *Chapter 1* there is a description of the FMC's organization and its regulatory responsibilities. In order to carry out its mandates, the FMC operates under five program areas: Formal Proceedings, Equal Employment Opportunity, Inspector General, Operations, and Administration.

PROGRAM PERFORMANCE



Formal Proceedings Program

Office of the Commissioners

Five Commissioners are appointed by the President with the advice and consent of the Senate. The president designates one of the Commissioners to serve as Chairman. The Chairman has exclusive authority over agency personnel matters, organization and supervision, distribution of business, and use of funds for administrative purposes.

The Chairman and the other four Commissioners are responsible for deciding cases in which parties must have the opportunity to be heard. During FY 2005, the Commission issued 30 orders and/or notices in formal proceedings. The Commission also issued 12 orders in non-docketed proceedings.

Office of the Secretary

The Office of the Secretary serves as the focal point for all matters submitted to and emanating from the Commission. Accordingly, the Office is responsible for preparing and submitting regular and notation agenda matters for consideration by the Commission, and preparing and maintaining the minutes of actions taken on these agenda and notation matters; receiving and processing formal and informal complaints involving violations of the shipping statutes and other applicable laws; receiving and processing special docket applications and applications to correct clerical or administrative errors in service contracts; issuing orders and notices of actions of the Commission; maintaining official files and records of all proceedings; receiving all communications, petitions, notices, pleadings, briefs, or other legal instruments in regulatory and quasi-judicial proceedings and subpoenas served on the Commission or members thereof; administering the Freedom of Information, Government in the Sunshine, and Privacy Acts; responding to information requests from the maritime industry, the public, and FMC staff; issuing publications and authenticating instruments and documents of the Commission; compiling and publishing Commission decisions; maintaining and promulgating official copies of the FMC's regulations; and maintaining the FMC's Public Reference/Law Library, Docket Activity Library and Internet website. The Secretary's Office also participates in the implementation of legislative changes to the shipping statutes. Further, the Secretary's office oversees the administration of the Office of Consumer Affairs and Dispute Resolution Services.

Looking Back: 2005

- In FY 2005, the Office of the Secretary issued 42 orders and/or notices in formal docketed and non-docketed proceedings, processed 48 agenda items, 60 pages of minutes, 290 Federal Register Notices, and 47 FOIA requests. The Office also completed the redesign of the agency's website, to enhance its content, organization and functionality.

Looking Ahead: 2006

- In FY 2006, the Office of the Secretary will continue to make certain documents filed in formal proceedings available in an electronic format through its website.
- In FY 2006, the Office will complete a project for scanning and posting historical Commission decisions issued between 1989 and 1996.

PROGRAM PERFORMANCE



Office of Consumer Affairs and Dispute Resolution Services

The Office of Consumer Affairs and Dispute Resolution Services implements the FMC's Alternative Dispute Resolution ("ADR") program, and provides *ombuds* services and responds to inquiries and complaints. Under this program, parties to a dispute are encouraged to avail themselves of services provided by the FMC to resolve disputes through mediation or *ombuds* services. The Director of the Office is the FMC's Dispute Resolution Specialist. The Director and other trained Office staff serve as third-party neutrals in proceedings that are in litigation. CADRS personnel provide mediation services for a broad range of disputes, from informal, pre-litigation disputes to those involving significant matters in litigation. *Ombuds* services are provided to resolve a variety of immediate concerns involved with cargo shipments and cruise matters. Should a matter not be resolved through *ombuds* services, or through more formal mediation services, a claimant may choose to initiate an informal docket proceeding, alleging a 1984 Act violation. This is a form of arbitration, with both sides agreeing to be bound by the decision of the settlement officer. Claimants who prefer formal docket procedures may opt to file a formal complaint and fully litigate the dispute before the FMC's Administrative Law Judges. Mediation services may also be provided in such formal proceedings. Also, CADRS staff review and decide special docket applications, which are requests to waive or refund freight charges.

Looking Back: 2005

- CADRS received 2,550 inquiries by phone, e-mail, and fax. In addition, 950 informal complaints, or *ombuds* cases, were received, and 12 informal dockets were filed.
- CADRS received 400 household goods complaints.

Looking Ahead: 2006

- A goal for FY 2006 is to continue to promote the use of ADR.
- Another goal in FY 2006 is to make more consumer protection information available through the Commission's website, particularly regarding transportation of household goods.

Office of the General Counsel

The General Counsel provides legal counsel to the Commission. This includes reviewing staff recommendations for Commission action for legal sufficiency, drafting proposed rules to implement Commission policies, and recommending and preparing final decisions, orders, and regulations for Commission adoption. In addition, the Office of the General Counsel provides written and oral legal opinions to the Commission, its staff, and the general public in appropriate cases. As described in more detail below, the General Counsel also represents the FMC before the courts, Congress, and other government agencies and administers the FMC's international affairs program.

Looking Back: 2005

- In FY 2005, General Counsel produced 15 speeches, articles or presentations, participated in 30 interagency and international group sessions, and responded to 275 requests for information.

International Affairs Program

- In FY 2005, General Counsel produced 35 reports, policy papers, briefings, or controlled carrier recommendations.
- In FY 2005, the FMC continued to monitor potentially restrictive shipping practices of the Governments of Japan and the People's Republic of China ("PRC").

PROGRAM PERFORMANCE



2005 Legislative Activity

- During FY 2005, 130 bills, proposals and Congressional inquiries were referred to the Office of the General Counsel for comment. The Office prepared and coordinated testimony for one Congressional hearing. The Office also worked closely with Congressional staffs on proposed legislation that affected the FMC and prepared a report to Congress on the sharing of ocean shipping information for the purpose of assisting law enforcement and anti-terrorism efforts.

Looking Ahead: 2006

- In FY 2006, the Office will increase relationships with other agencies with responsibilities related to maritime security.

2005 Litigation

The General Counsel represents the FMC in litigation before courts and other administrative agencies. The following is representative of matters litigated by the Office.

- ***American Institute of Shipper's Associations v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1036 - International Shippers' Association v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1037.*** This proceeding is an appeal of the FMC's final rule, and its order denying rehearing, in Docket No. 04-12, *Non-vessel-operating Common Carrier Service Arrangements* ("NSRs"). In order to ensure that competition would not be harmed, that rule forbade NVOCCs and shippers associations with NVOCC members from acting as shippers in NSAs. The petitioners seek to convince the Court of Appeals either that the Commission's rule is discriminatory against shippers associations with NVOCC members, or that the rule is entirely beyond the scope of the agency's authority. On March 14, 2005, the following entities moved to intervene in support of the FMC's rule: BAX Global Inc., FEDEX Trade Networks Transport & Brokerage, Inc., National Industrial Transportation League, Transportation Intermediaries Association, and United Parcel Service, Inc. On March 16, 2005, the Court, on its own motion, consolidated Case Nos. 05-1036 and 05-1037. The Fashion Accessories Shippers Association moved for permission to file an *amicus curiae* brief on April 16, 2005. The Office of General Counsel filed a Certified Index of the Record on May 2, 2005. On May 11, 2005, the Court granted all of the motions to intervene, and granted the Fashion Accessories Shippers Association motion for leave to participate as an *amicus curiae*. The Court has not yet scheduled briefing in this case.

Office Of Administrative Law Judges

Administrative Law Judges regulate the course of proceedings, conduct hearings, approve settlements, and render decisions in adjudicatory proceedings held after receipt of a complaint, or when instituted by the Commission. ALJs have authority to administer oaths and affirmations; issue subpoenas; rule upon motions and offers of proof; receive evidence; authorize depositions; regulate the course of hearings; hold pre-hearing conferences for the settlement or simplification of the issues involved; refer matters to mediation when appropriate; dispose of procedural requests; act as settlement judges in particular cases; and take any other action authorized by agency rule or the Administrative Procedure Act. In FY 2005, the ALJs handled 12 formal proceedings.

Looking Back: 2005

- In FY 2005, the Office handled 12 formal proceedings.

PROGRAM PERFORMANCE



Looking Ahead: 2006

- In FY 2006, the Office of Administrative Law Judges will continue to conduct hearings and render decisions on proceedings.

Inspector General Program

The Office of the Inspector General operates pursuant to the Inspector General Act of 1978, as amended in 1988. The 1988 amendments created additional statutory offices of inspector general at various designated Federal entities, including the FMC. The Office is an independent and objective unit which conducts audits, reviews operations and programs, investigates possible fraud, waste and abuse of Commission resources, and promotes economy, efficiency and effectiveness in programs and operations administered by the Commission.

Looking Back: 2005

- The Office issued a number of reports, including the required audit of the agency's financial statements, an audit of agreement filings, an audit of controls over agency property, an audit of procurement of vendor training services, a required annual review of the agency's information security program, and an evaluation of the agency's SERVCON contract.

Looking Forward: 2006

- The Office will continue its high priority program of conducting program evaluations in order to improve agency programs and operations.
- Statutorily required reviews will be conducted of the agency's financial statements and information security program.

Equal Employment Opportunity Program

The Office of Equal Employment Opportunity (EEO) assists the FMC in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 and other laws, executive orders, and regulatory guidelines affecting affirmative employment and non-discrimination in the federal government. The Office of EEO administers and ensures the Commission's compliance with the laws, regulations and policies that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, gender, age, disability, or reprisal. The Office of EEO is responsible for processing EEO pre-complaints and formal complaints, for encouraging resolution, and for establishing and maintaining a continuing affirmative program designed to promote equal opportunity in every aspect of the Commission's personnel policies and practices.

Looking Back: 2005

- In FY 2005, for the first time in the Commission's history, women and minorities represented a majority of the workforce.
- Ninety-five percent of the Commission's employees completed the No FEAR Act mandatory training.
- The Office facilitated EEO workshops and programs on respect in the workplace, conflict resolution and sexual harassment.

Looking Forward: 2006

- The Office will continue all existing EEO programs and initiate additional activities and programs to promote equal opportunity in the agency and increase understanding of EEO concepts and principles.

PROGRAM PERFORMANCE



Operations Program

Office of Operations

The Director of Operations is the senior staff official responsible to the Chairman for the management and coordination of FMC programs under the Bureau of Enforcement, the Bureau of Trade Analysis, and the Bureau of Certification and Licensing.

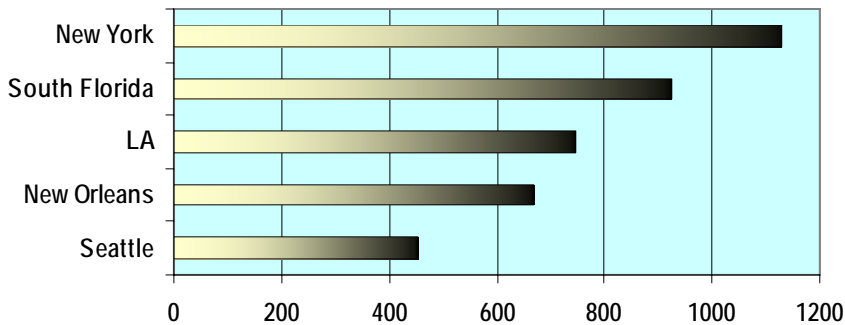
Program accomplishments are detailed in individual bureau sections. In addition, the Office of Operations oversees the Area Representatives.

Area Representatives

The Commission maintains a presence in Los Angeles, South Florida, New Orleans, New York and Seattle through Area Representatives based in each of those areas. These representatives serve other major port cities and transportation centers within their respective areas. In addition to monitoring and investigative functions, Area Representatives represent the FMC within their jurisdictions, provide liaison between the FMC and the maritime industry and the shipping public, collect and analyze intelligence of regulatory significance, and assess industry conditions. Liaison activities involve cooperation and coordination with other government agencies and departments, providing regulatory information and relaying FMC policy to the shipping industry and the public, plus handling informal complaints within each representative's area of responsibility.

Interaction between the Commission's Area Representatives and U.S. Customs and Border Protection ("CBP") with respect to the exchange of investigative information continues to be beneficial to both parties. Cooperation with CBP has expanded into several joint field operations to investigate entities suspected of violating both agencies' statutes or regulations. Cooperative efforts also involved local police and the U.S. Citizenship and Immigration Services, when necessary.

Regulated Entities by Region*



* Seattle, New Orleans, Los Angeles, and New York are covered by 1 Area Representative each; South Florida is covered by two Area Representatives. In addition to the Area Representatives under the Office of Operations, Bureau of Enforcement staff covers the mid-Atlantic consisting of 1,222 U.S. and foreign regulated entities.

PROGRAM PERFORMANCE



Bureau of Enforcement

The Bureau of Enforcement is the primary compliance and enforcement arm of the FMC. It works in various ways to ensure that regulated entities comply with statutory requirements. It offers guidance and assistance to help these entities achieve such compliance. Attorneys of the Bureau of Enforcement participate as trial counsel in formal adjudicatory proceedings. The Bureau also participates in formal complaint proceedings where intervention is appropriate. Bureau attorneys serve as legal advisors to the Director of Operations and other bureaus, and also may be designated Investigative Officers in non-adjudicatory fact finding proceedings. The Bureau monitors all other formal proceedings in order to identify major regulatory issues and to advise the Director of Operations and the other bureaus. The Bureau also participates in the development of Commission rules and regulations. Under the direction of the General Counsel, attorneys from the Bureau also may participate in matters of court litigation to which the FMC is a party.

Looking Back: 2005

- At the beginning of FY 2005, 39 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 7 formal proceedings, and there were 56 matters pending which the Bureau was monitoring or for which it was providing legal advice. During the fiscal year, 15 new enforcement actions were commenced; 25 were compromised and settled, administratively closed, or referred for formal proceedings; and 29 enforcement cases were pending resolution at fiscal year's end. Also, the Bureau participated in 2 new formal proceedings, 3 proceedings were completed, and 6 formal proceedings were pending at the end of the fiscal year. Additionally, 65 matters involving monitoring or legal advice were received during the fiscal year, 60 such matters were completed, and 61 were pending in the Bureau on September 30, 2005.
- During FY 2005, the Bureau worked to obtain statutory compliance in all major trades and with all segments of the transportation industry, i.e., carriers, carrier agreements, MTOs, PVOs, and OTIs.
- The Bureau also initiated enforcement action to address market-distorting activities such as various forms of secret rebates and absorptions, misdescriptions of commodities and misdeclarations or measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded non-vessel operating common carriers, and joint carrier activities outside the authority of filed agreements.

Looking Ahead: 2006

- In FY 2006, the Bureau will continue to pursue statutory compliance by entities regulated by the Commission, and the elimination of market-distorting, fraudulent and anticompetitive practices.
- The Bureau will work with non-vessel-operating common carriers and vessel-operating common carriers to limit participation of unlawful entities in ocean transportation.
- During FY 2006, the Bureau will review the results of recent major enforcement actions to assess effectiveness of remedies.

PROGRAM PERFORMANCE



Bureau of Trade Analysis

The Bureau of Trade Analysis reviews agreements and monitors the concerted activities of common carriers by water under the standards of the 1984 Act. The Bureau also reviews and analyzes service contracts and NSAs, monitors rates of government controlled carriers, reviews carrier published tariff systems under the accessibility and accuracy standards of the 1984 Act, and responds to inquiries or issues that arise concerning service contracts or tariffs. The Bureau also is responsible for competition oversight and market analysis, focusing on activity that is substantially anti-competitive and market distorting in violation of the 1984 Act. BTA strives to be an expert organization on the economics of international liner shipping and maritime agreements, especially with respect to issues of competition and unfair trade practices as they may affect the interests of the shipping public and U.S. international trade.

An integral part of BTA's responsibilities is the systematic surveillance of carrier activity and commercial conditions in the U.S. liner trades. Accordingly, BTA administers a variety of monitoring programs, and other research efforts, designed to apprise the Commission of current trade conditions, emerging commercial trends, and carrier pricing and service activities.

Office of Agreements

The Bureau's agreement program activities consist of: (1) processing carrier and marine terminal agreement filings under the procedures of the 1984 Act as modified by OSRA; (2) conducting a comprehensive review and analysis of all pertinent legal and commercial facets of agreements to recommend appropriate action to the Commission on the disposition of filed agreements; (3) making appropriate recommendations on requests for a waiver of Information Form and Monitoring Report filing requirements; (4) maintaining the FMC's official agreement archives; and (5) maintaining an agreement database that contains pertinent information on each carrier and marine terminal agreement filed with the FMC.

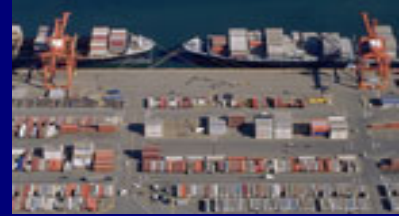
Looking Back: 2005

- During FY 2005, the Bureau received 213 carrier agreement filings and 33 terminal agreement filings. The Bureau also received and reviewed minutes of meetings and reports filed by various agreement parties.
- With the implementation of revised and updated agreement rules earlier in the year, a number of filers have used the new low market share exemption to have their agreement filings become effective on filing. Under this exemption agreements that do not raise serious competitive concerns are allowed to become effective without waiting the statutorily required 45 days.
- Also in reaction to the new agreement rules on the filing of minutes of meetings, a number of agreement parties removed pricing authority, a trigger for filing minutes, from their agreements. Further, several conferences and rate discussion agreements added liability clauses to limit the liability when parties meet and fail to file minutes or when a party or parties fail to submit individual monitoring report data.
- In FY 2004, the Bureau completed automating its carrier agreement library and now provides electronic copies of carrier agreements to the public. In FY 2005, the Bureau, in conjunction with the Office of the Secretary and the Office of Information Technology, implemented links on the agency's website to allow the public to directly access the Bureau's automated carrier agreement library.

Looking Ahead: 2006

- In the future, the Bureau will undertake an evaluation of the impact of the new agreement rules on the industry and on the internal processes of the agency. Further, the Bureau plans on completing the automation of its terminal agreement library and having it accessible through the agency's website.

PROGRAM PERFORMANCE



Office of Economics and Competition Analysis

To keep the Commission apprised of current trade conditions, emerging commercial and economic trends, and the impact of regulations affecting waterborne liner transportation, the Bureau prepares studies and profiles of major trades, monitoring reports, economic analyses, and agreement/carrier profiles, and undertakes special projects to identify and track relevant competitive and economic activity in major U.S. trade lanes. The Bureau's monitoring activities include surveillance programs to identify: (1) concerted activity without an effective agreement on file with the FMC, or concerted activity exceeding the scope or authority of an effective agreement; (2) activity contravening the mandatory conference agreement provisions required by sections 5(b) and 5(c) of the 1984 Act; (3) the potential for, or emergence of, unreasonable transportation service/cost impacts that contravene the section 6(g) general standard; (4) controlled carrier activity in areas relevant to the FMC's administration of section 9 of the 1984 Act; (5) the occurrence of prohibited acts proscribed under section 10; (6) economic harm associated with unfair trade practices of foreign governments; and (7) whether the continued operation of an effective agreement in its present form is consistent with the statutes and current FMC decisions, rules, and policies. The Bureau develops profiles of major trade areas to assess carrier behavior under agreements, to determine compliance with regulatory requirements, and to ascertain the competitive posture of carriers, shippers, and shippers' associations within each trade.

Looking Back: 2005

- The Bureau received 1,070 sets of minutes and 198 quarterly monitoring reports in FY 2005. Under the new agreement reporting regulations (45 CFR part 535), revised monitoring reports began arriving in June 2005.
- The Bureau produced a variety of reports and analyses, including two further editions of its Trade Profile for the Commission, with data on liner cargo growth, vessel capacity, average revenue per TEU, etc., in the major U.S. trades, and analyses of an exclusive terminal agreement between the City of Portland, Maine and a vessel operator serving the Portland to Yarmouth, Nova Scotia passenger/passenger-vehicle trade.
- Other projects undertaken by the Bureau included, notifications to filing counsels of which agreements were subject to the new reporting regulations, review and analysis of the merits of requests for waivers to the new reporting regulation, redesign of the agreements' database, and conducting economic analyses of filed agreements and modifications, including the West Coast Terminal Operators Agreement to implement traffic mitigation fees at the ports of Los Angeles and Long Beach.

Looking Ahead: 2006

- The Bureau intends to convert its historical PIERS data into MS Access and to implement a user-friendly, web-based PIERS data analysis system.
- The planned new PIERS data system will be linked to the revised agreements database to facilitate production of the Bureau's regular trade monitoring publications and other trade analysis reports.
- The agreements database will be further enhanced to accept electronic submission of minutes and quarterly monitoring reports and to make those documents searchable.
- Planned changes to Trade Profile will give that publication a stronger forward-looking flavor.

PROGRAM PERFORMANCE



U.S. Container Cargo Volumes (TEUs)

Year	U.S. Imports	Annual Growth	U.S. Exports	Annual Growth
2000	11,261,101	11.9%	6,832,463	7.4%
2001	11,366,221	0.9%	6,615,846	-3.2%
2002	13,134,611	15.6%	6,668,727	0.8%
2003	14,155,374	7.8%	7,255,027	8.8%
2004	15,981,875	12.9%	7,836,234	8.0%
Forecasts				
2005	17,049,876	6.7%	8,530,090	8.8%
2006	18,064,457	6.0%	9,514,385	11.5%

Source: Journal of Commerce/PIERS, Trade Horizons (Spring 2005 and 2003).

* Note: The fiscal year 2005 figures include forecasts for the last three quarters.

Office of Service Contracts and Tariffs

The 1984 Act allows ocean common carriers, either individually or through agreements, to negotiate and execute service contracts with one or more shippers or shippers' associations. Under service contracts, shippers make a commitment to provide a certain volume or portion of cargo over a fixed period of time and carriers commit to a specified rate and a defined service level. These contracts are filed confidentially with the FMC. A concise statement of certain contract terms, i.e., commodity or commodities involved, minimum volume or portion, duration, and origin and destination port ranges, is required to be published in carriers' or conferences' tariffs.

Service contracts offer an alternative to transportation under tariff terms. Contract flexibility enables carriers to tailor their transportation services to the specific commercial and operational needs of shippers. The confidentiality of contracts has spurred commercial innovations and brought greater efficiencies in the movement of cargo. Overall, the use of service contracts has continued to increase significantly due primarily to the efficiency, flexibility, and confidentiality of one-on-one negotiation of contracts between shippers and carriers.

Under final rules in the FMC's Docket No. 04-12, NVOCCs are permitted to enter into, and file with the FMC, NVOCC Service Arrangements with their shipper customers. These arrangements are similar to the confidential service contracts of common carriers and agreements of ocean common carriers.

The 1984 Act, as amended by OSRA, requires carriers and conferences to publish their tariffs in private electronic systems. Tariffs are to be made available, typically through Internet access, to any person, without time, quantity, or other limitation. Carriers are permitted under law to charge a reasonable fee for providing public access to their tariffs. The Bureau reviews and monitors the accessibility and accuracy of the private systems and reviews published tariff material for compliance with the 1984 Act's requirements. The Bureau continues to act upon applications for special permission to deviate from tariff publishing rules and regulations.

PROGRAM PERFORMANCE



Looking Back: 2005

- During FY 2005, the Bureau received 50,200 new service contracts and 224,160 contract amendments.
- An estimated 120 NSAs and 40 amendments were filed by NVOCCs under the FMC's Final Rule in Docket No. 04-12, *NVOCC Service Arrangements*.
- 3,873 active/current tariff location addresses for carriers, conferences, and MTOs were posted on the FMC's homepage during FY 2005. A total of 1,625 inactive/cancelled tariff location addresses were posted as well.
- The Bureau continued to monitor accessibility to tariffs published in carriers' automated tariff systems ("CATs"). Adjustments were made to some CATs and various NVOCC tariffs to bring them into compliance.

Looking Ahead: 2006

- The Bureau intends to focus on enhancing the use of service contract and NSA data, and evaluate SERVCON system functionality.
- The Bureau will continue to participate in activities to help identify any service contract provisions which may be significant to maritime security concerns.

Bureau of Certification and Licensing

The Bureau of Certification and Licensing (1) licenses and regulates OTIs, including ocean freight forwarders and NVOCCs; (2) issues certificates to owners and operators of passenger vessels that evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages or for death or injury to passengers and other persons and (3) manages programs assuring financial responsibility of OTIs and PVOs, by developing policies and guidelines, and analyzing financial documents. In carrying out these functions, the Bureau provides information and referrals in response to a wide array of informal inquiries, and provides guidance with respect to licensing and bonding.

Office of Transportation Intermediaries

The Office of Transportation Intermediaries is responsible for reviewing and approving applications for OTI licenses, and maintaining and updating records about licensees. Without a license, an OTI may not legally operate in the United States. NVOCCs not domiciled in the U.S. are required to have a \$150,000 bond and designate a U.S. resident agent.

Looking Back: 2005

- During FY 2005, the FMC received 417 new and 230 amended OTI applications. 306 new and 146 amended licenses were issued, 220 licenses were revoked, and an additional 55 non-U.S.-based unlicensed NVOCC bonds were cancelled.
- As the result of Docket No. 04-02, *Options Rider for Proof of Financial Responsibility*, OTIs may file an optional rider for additional proof of financial responsibility for U.S.-domiciled licensed NVOCCs servicing the U.S./PRC trade, allowing them to meet financial responsibility requirements imposed on NVOCCs by the PRC. During FY 2005, the FMC processed 13 PRC bond riders for a total of 34 riders.

PROGRAM PERFORMANCE



- The FMC continues its effort at outreach to the industry to increase awareness of licensing and bonding requirements for OTIs.
- The FMC completed its update of the Regulated Persons Index (“RPI”) database in FY 2005. Data elements, queries and standard reports have been identified and programmed, as applicable. The required functionality has been identified and staff is working on ensuring that the updated RPI is compatible with other FMC databases and will meet the needs of various FMC components.

Looking Ahead: 2006

- The Bureau will continue its efforts in FY 2006 to design electronic forms, especially the FMC-18, and further explore integration of FMC databases and the feasibility of electronic payments, e-signature and e-bond capability.
- In FY 2006, the Bureau will continue its work to achieve the target of 30 days from receipt to completion of license applications. The current backlog is being cleared and a concerted effort is being made to process current applications between 30 and 45 days after receipt of all appropriate documentation. The option to file applications electronically should increase efficiency and allow analysts more time to perform analytical evaluations regarding information provided by OTI applicants.
- In FY 2006, the Bureau will continue its efforts to directly inform active OTIs of licensing requirements and to assist small businesses in meeting the application and licensing requirements. The improved website should assist the Bureau in providing information to OTIs.

Ocean Transportation Intermediary Statistics					
	Pre-OSRA	As of 9/30/02	As of 9/30/03	As of 9/30/04	As of 9/30/05
Freight Forwarders	1,700	1,294	1,262	1,242	1,210
NVOCCs	2,200	1,298	1,317	1,401	1,455
Freight Forwarder / NVOCC	400	873	900	946	1,025
Foreign NVOCC Unlicensed	0	653	721	775	820
Foreign NVOCC Licensed	0	41	40	36	38
TOTAL	4,300	4,159	4,240	4,400	4,548

PROGRAM PERFORMANCE



Passenger Vessels and Information Processing

The Office of Passenger Vessels and Information Processing (“OPVIP”) has the responsibility of implementing the Commission’s Passenger Vessel Program in accordance with Public Law 89-777 (46 CFR 540). This program ensures that passengers are indemnified against casualty or non-performance from cruise lines. The OPVIP is responsible for reviewing applications for certificates of financial responsibility, managing all activities with respect to evidence of financial responsibility of passenger vessel owner/operators, and developing and maintaining all Bureau databases and records of OTI applicants and licensee.

Looking Back: 2005

- The Passenger Vessel Program received 20 applications for Performance Certificates and processed 23, and received 14 and processed 17 applications for Casualty Certificates.
- In addition, OPVIP worked with five cruise lines which ceased operations or left the trade to ensure all passengers due refunds under P.L. 89-777 received them and that where coverage was evidenced by escrow, the escrow accounts were closed appropriately.
- A current list of licensed OTIs is maintained on the Commission’s website. This informs carriers and individuals regarding unlicensed OTIs, and is helpful to other government agencies, such as CBP’s Border Patrol.

Monitoring Program

During FY 2005, the Bureau developed and implemented a program to more effectively monitor PVO activities. The PVO monitoring program ensures that operators provide accurate and timely information required to be submitted and that evidence of adequate financial coverage has been provided.

Looking Ahead: 2006

- In FY 2006, the Bureau intends to continue working on the rulemaking to ensure that the Passenger Vessel Program provides adequate consumer protection without being unduly burdensome on the industry. In FY 2006, the Bureau will work closely with the PVOs to implement new rules and financial responsibility requirements on a timely basis.

Administration Program

Office of the Director

The Office of Administration (“OA”) provides administrative support to the program operations of the Commission. The Director, OA, is responsible for the direct administration and coordination of the Office of Budget and Financial Management, the Office of Human Resources, the Office of Information Technology, and the Office of Management Services. Many of the functions and achievements of the OA are reflected below in the narratives for these offices.

The Director, OA, provides administrative guidance to the Offices of the Commissioners, Secretary, General Counsel, Administrative Law Judges and Operations, and administrative assistance to the Offices of the Inspector General and Equal Employment Opportunity. The Director is the FMC’s Chief Acquisition Officer, Audit Follow-up and Management (Internal) Controls Official, and Forms Control Officer, and serves as the agency’s lead executive for strategic planning and implementation of the Government Performance and Results Act of 1993. The Deputy Director of Administration is the FMC’s Chief Information Officer. He also serves as the FMC’s Competition Advocate and Records Management Officer.

PROGRAM PERFORMANCE



Looking Back: 2005

- Guided the agency's continuing efforts to enhance its information technology program and address recommendations made by the Inspector General through a contractor assessment of agency IT operations.
- The agency's financial management system received an unqualified opinion in its FY 2005 financial statement audit.
- Directed preparation of the GPRA Annual Performance Plan and Annual Program Performance Report; prepared the Federal Activities Inventory Reform Act report, the Performance and Accountability Report (including the Management's Discussion and Analysis and the Federal Managers' Financial Integrity Act report), and transmittal letters for the Inspector General's semiannual reports to Congress.
- Prepared the Agency Regulatory Plan, Semiannual Unified Agendas, and the SBPRA Implementation Plan, and coordinated completion of the agency's 43rd Annual Report.

Looking Ahead: 2006

- The Office's key objectives for FY 2006 are continuing to implement the Chairman's policy directions aimed at refining and enhancing agency administrative programs and operations; monitoring the accomplishment of agency performance goals; initiating further information technology improvements; and working with senior managers to ensure effective strategic succession planning.
- The Office also will take the lead in assuring an effective agency-wide computer security program, and that the agency's financial management system receives an unqualified opinion in its annual financial audit.

Office of Budget and Financial Management

The OBFM administers the Commission's financial management program and is responsible for providing advice on optimal utilization of the Commission's fiscal resources.

Looking Back: 2005

- In FY 2005, OBFM coordinated and prepared the FY 2006 Congressional Budget and the FY 2007 OMB budget request, prepared a multitude of financial reports.
- In FY 2005, OBFM satisfied E-Travel initiatives by migrating to a new electronic travel application.
- In FY 2005, the Office began consolidating all financial functions within a single database to ensure relevancy and completeness of financial data and records.

PROGRAM PERFORMANCE



Looking Ahead: 2006

- In FY 2006, the Office will strive to ensure that the agency’s financial management system receives an unqualified opinion in its annual financial audit.

Office of Human Resources

The OHR plans and administers a complete human resources management program.

Looking Back: 2005

- Conducted a comprehensive training program in accordance with the agency’s strategic and performance plans including developing policy and procedural guidance related to the acquisition of training.
- Explored opportunities available for developing an Emerging Leaders program, and promoted e-learning and on-line training opportunities.

Looking Ahead: 2006

- In FY 2006, the Office will implement Homeland Security Presidential Directive No. 12, the new Government identification card program.

Office of Information Technology

The OIT provides management support with respect to information technology to the program and administrative operations of the Commission, and thus is responsible for ensuring that the Commission’s IT program is administered in a manner consistent with applicable rules, regulations and guidelines.

Looking Back: 2005

- Upgraded the Commission’s network infrastructure, network security infrastructure, and increased network bandwidth.
- Improved the policies and procedures associated with the technical assistance provided to FMC staff and changes in the IT infrastructure.
- Completed the rewrite of the Internet-based Service Contract Filing System.
- Developed an FMC Enterprise Architecture.
- Reviewed the FMC’s applications and completed security assessments for each.

Looking Ahead: 2006

- Complete corrective actions on two material weaknesses related to IT.
- Establish and test the COOP disaster recovery site.

PROGRAM PERFORMANCE



Office of Management Services

The OMS is responsible for procuring and furnishing all supplies, equipment and services necessary and required to support the day-to-day operations and overall mission objectives of the Commission.

Looking Back: 2005

- Coordinated the realignment of headquarters personnel within existing office space.
- Enhanced physical security to address a Department of Homeland Security (“DHS”)/Federal Protective Service (“FPS”) headquarters building assessment.
- Revised emergency preparedness manuals for all agency personnel in accordance with the office space adjustments.

Looking Ahead: 2006

- Design a more efficient office space layout for agency personnel pursuant to the agency’s realignment.
- Enhance the agency’s COOP Plan.
- Provide support in the implementation of Homeland Security Presidential Directive No. 12, the new Government identification card program.

PROGRAM PERFORMANCE



Annual Performance Report

Introduction

The Commission has prepared the following Annual Program Performance Report for FY 2005, as required by GPRA, and in accordance with OMB Circular No. A-11, Part 2. The Commission's actual performance in FY 2005 is compared with the projected levels of performance established in the agency's FY 2005 Revised Final Annual Performance Plan (See Appendix F for a copy of the Agency's FY 2005 Plan).

This progress report covers the Commission's efforts in FY 2005 to foster an equitable, secure, and market driven ocean transportation industry. The Commission focused on furthering its interactions with external parties to increase the value of its services and oversight operations, and on strengthening relationships with government agencies responsible for maritime security to facilitate mutual efforts to identify and address potential security threats. This includes improving communication with the media, industry representatives, and other stakeholders to increase public awareness of Commission programs and policies, and to help address concerns before they become problems. In addition, we broadened our efforts to implement the President's Management Initiative to expand electronic government. We improved the management of information by utilizing technology to streamline and simplify the delivery of services and information to regulated entities, other government agencies, and the public, and we created more sophisticated databases to allow staff to more effectively identify regulated activities, complaints, and potential abuses. Also, we implemented an IT Capital Planning Investment Control Process for the agency's major IT investments.

We achieved overall success in reaching our stated goals and objectives -- accomplishing most and exceeding several. We continue to find that the planning and direction required by the GPRA process facilitates our efforts to attain results-driven objectives.

We have forwarded this report to the President, with a copy to the Director, OMB, and appropriate Congressional committees. Additionally, we have placed this document on our Internet website to ensure that it is readily accessible to interested parties, and have advised all Commission employees to take the time to review it.

We have sought to be direct and concise in the manner in which we are presenting the relevant information. For organizational purposes, and to facilitate review, this report reflects our revised mission statement, and briefly summarizes it. We then list the Strategic Goals we have identified as crucial to accomplish our mission. Our agency Performance Goals now are linked directly to our Strategic Goals instead of our Budget Program Activities, as they were in past years. While our FY 2005 Revised Final Annual Performance Plan contains specific Performance Goals, many of the Commission's resources were dedicated to its various day-to-day activities. These steady state activities are not specifically addressed in this Report, as they are discussed in full in other documents, such as the agency's Annual Report and President's Budget. Instead, this Report focuses on the agency's annual Performance Goals and how they were achieved. Thus, we have organized this report by the five Strategic Goals under which we operated in FY 2005. For each of these Goals, we state the Performance Goals that are directly related to them. We then state the target level of performance for each Performance Goal, and our actual level of performance regarding that Goal. For any Performance Goal that was not met or not substantially completed, we have provided a specific explanation why the Goal was not met, along with the actions and schedule for meeting the Goal in the future. Additionally, the last section of this report identifies the Performance Goals from our fiscal years 2003 and 2004 Program Performance Reports which we previously reported as not having been accomplished or substantially completed, and explains the actions we subsequently took regarding the requirements of each such Goal.

PROGRAM PERFORMANCE



The Commission acknowledged in its 2003 Strategic Plan that the basic principles of liner shipping were being modified, as the shipping industry continued to restructure itself while shippers were placing an increasing importance on rates and services. Given the significant issues the agency was facing, in 2003 it identified the actions necessary to ensure that its oversight and legislative initiatives produced a competitive and nondiscriminatory trading environment in the U.S. ocean commerce that was in harmony with and responsive to international shipping practices. During 2004, the Commission built on that analysis and focused its energies and efforts on re-evaluating its organizational structure to ensure that it was aligned and managed in a manner best suited to accomplish its mission with a minimum of government intervention and regulatory costs. In 2005, the Commission focused on staff and program issues, and emphasized outreach for a more open dialogue with our industry partners and stakeholders in light of the changing dynamics of the ocean shipping industry. As part of this process, we launched a redesigned and restructured agency website in order to meet the challenges of automation in a way which will facilitate the industry's ability to conduct business with the FMC.

FMC Strategic Goals

In recognition of its stated mission, and in conformity with the Shipping Act, the FMC established the following five strategic goals:

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.
2. *Compliance:* Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.
3. *Balanced Enforcement:* Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.
4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.
5. *Management Capabilities:* Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

These strategic goals addressed all important FMC statutory, programmatic, and management responsibilities. They were developed with a specific focus on accomplishing the basic thrusts of our mission. The Commission determined that achieving its mission-driven goals would enable it to address effectively the external factors it faced, while assuring an equitable and efficient administration of the shipping statutes under its jurisdiction.

PROGRAM PERFORMANCE



Progress in Achieving Performance Goals

The Performance Goals of the Commission's FY 2005 Revised Final Annual Performance Plan were linked directly to the Commission's Strategic Goals; they were identified as the appropriate means for accomplishing our mission. This section of the report assesses our actual performance in addressing these Goals.

Strategic Goal: Efficient Regulatory Process

Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.

Performance Goal 1:

Promote the use of ADR to potential users and provide conflict resolution training to Commission managers.

Progress: During the fiscal year, the Commission's Dispute Resolution Specialist met with a number of industry representatives concerning the Commission's ADR program. For example, in March of 2005, he addressed members of the National Customs Brokers & Forwarders Association of America at its national conference. At that meeting, he described and stressed the benefits of the Commission's ADR services, including the Ombuds services, provided by the agency's responsible Office (CADRS). CADRS can assist the public and regulated parties to resolve problems with carriers, cruise operators, OTIs, and other industry participants in a more economical manner. CADRS staff also provided training to agency personnel through an in-house seminar. This seminar was in addition to the many discussions that took place during the fiscal year with senior staff regarding the possible use of ADR, mediation, and ombudsman services for specific issues or cases before the agency.

Performance Goal 2:

Develop options for updating and modernizing the Commission's Rules of Practice and Procedure, including exploring the ability to utilize technology for electronic filing.

Progress: During the fiscal year, the agency's OS solicited and collected recommendations from the Commission's legal offices (OGC, ALJs, and BOE) for updating and modernizing the Commission's Rules of Practice and Procedure (46 CFR 502), and for accepting certain filings with the Commission in electronic form. Preliminary discussions were held but further effort on this initiative was shelved due to the need to use limited Commission resources on other, more pressing initiatives such as re-designing the Commission's website, participating in the Commission's OTI Task Force, development of strategies concerning issues arising in the household goods market, etc. The Commission has been in the process of reassessing its program focus and processes since its August 2004 re-alignment. Since realignment of Commission programs and processes will likely effect how and what types of proceedings are conducted, no definite target date or schedule for re-instituting this initiative has been established. It is anticipated that once the Commission has completed its internal assessment of programs and processes, this initiative will be re-instituted. In the meantime, the Commission and ALJs have permitted the use of electronic filing in formal proceedings on an ad-hoc basis.

Performance Goal 3

Develop an automated FMC-18 to permit electronic filing and explore feasibility of electronic payment and e-signature capability.

PROGRAM PERFORMANCE



Progress in Achieving Performance Goals (continued)

Progress: While the Commission has not completed this goal, substantial progress has been made in determining user needs and defining system requirements. The Commission's OIT has contracted for software development services needed to update and incorporate existing paper-based procedures and assumptions used in performing analysis of the Form FMC-18 licensing applications into the requirements for an automated Form FMC-18 system that permits electronic filing by the public. The automated Form FMC-18 system is anticipated to be implemented in phases throughout FY 2006, with electronic filing first authorized in the winter of 2006. Electronic payment options and e-signatures will be added in subsequent releases upon identification of an appropriate service partner for e-payments and review of legal issues relating to use of e-signatures for certification purposes. It is anticipated these changes will permit a more thorough review of applications, decrease costs and increase productivity.

Strategic Goal: Compliance

Promote the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.

Performance Goal 1:

Develop public relations strategies and programs.

Progress: In FY 2005, the Commission began what will be an ongoing effort to enhance relations with the public. Early in the year, OPS and OS compiled a list of ongoing and new public relations and outreach initiatives. These were linked to agency strategic objectives and assigned to the appropriate offices for oversight. One particular undertaking initiated in FY 2005 was the publishing of public service announcements targeted at private citizen shippers, warning about the use of unlicensed OTIs and the risk of cargo loss. This program will continue in FY 2006. For example, in March of 2005, the Commission's Dispute Resolution Specialist addressed members of the National Customs Brokers & Forwarders Association of America at its national conference. At that meeting, he described and stressed the benefits of the Commission's ADR services, including the Ombuds services, provided by the agency's responsible Office (CADRS). As well, Commission Area Representatives manned a booth at an industry conference as a pilot effort toward building the Commission's capacity for participation in such events. Current educational and informational materials were distributed to a receptive audience. Renewed emphasis has been placed on Commission presence at industry events and conferences toward ensuring a constant presence for the benefit of the shipping public. This goal is substantially complete, but work will continue into FY 2006 to further formalize an efficient and effective public relations strategy.

Performance Goal 2:

Enhance industry outreach.

Progress: During the fiscal year, Commission staff researched companies that develop and produce trade show materials and visited a local vender to explore presentation tools to be used at conferences, in-house seminars, and other forums. These materials will be used as a means to better communicate Commission oversight responsibilities and available services, as well as how the Commission can be of assistance to industry participants in meeting their regulatory responsibilities. Commission staff also met with other government agencies such as the Bureau of the Census, Department of Commerce to discuss options for partnering for mutual outreach initiatives and sharing resources. In addition, the Commission initiated a series of seminars/briefings for agency staff by representatives of the shipping industry and maritime community, including shippers, carriers, marine terminal operators, OTIs, freight forwarders, and cruise lines. The briefings are intended to foster a greater awareness and understanding of the current issues and concerns affecting the various interests involved in the U.S. foreign commerce. Further, senior Commission staff met and conducted an analysis of the Commission's outreach strategies, and is in the process of developing and implementing a plan based on that analysis. This Performance Goal is closely related to the Commission's performance goal to "Develop public relations strategies and programs" and therefore, while it is substantially complete, work will continue into FY 2006 to further formalize

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Progress in Achieving Performance Goals (continued)

Performance Goal 3:

Provide opportunity for VOCCs to establish a “best practices” program to limit participation of unlawful entities in ocean transportation.

Progress: The original goal of providing an opportunity for VOCCs to establish a “best practices” program was revised and expanded in FY 2005. As one component, all carriers, NVOCCs as well as VOCCs, are being encouraged to develop and implement effective practices and procedures to deny carrier services to noncompliant OTIs. The principle tenets of an effective carrier program, together with model provisions, will be published on the Commission’s web site and publicized through compliance and outreach efforts in FY 2006.

Strategic Goal: Balanced Enforcement

Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.

Performance Goal 1:

Contact and educate consumer protection agencies on the state and local government level regarding Commission programs and remedies to protect and assist the public from the unlawful activities of transportation providers and intermediaries.

Progress: During the fiscal year, CADRS staff met with representatives from STB and the FMCSA to discuss issues concerning possible remedies to protect and assist the public from the unlawful activities of transportation providers and intermediaries involved in the international movement of personal household goods. These discussions have been very productive and have resulted in effective cooperation among the agencies. Also, the Commission has partnered with the FMCSA with respect to outreach and providing information to the public on protecting their household goods shipments. CADRS staff also has cooperated with federal and state law enforcement authorities in their investigations of malpractices in the household goods industry. Additionally, CADRS staff held discussions with consumer protection representatives from various states, specifically establishing an ongoing relationship with the State of Florida, a state which has seen a significant number of household goods shipment problems.

Performance Goal 2:

By June 30, 2005, redesign internal agreement database to enable more efficient oversight of agreement activities.

Progress: The redesign of the internal agreements database was completed ahead of schedule, on March 21, 2005, and is consistent with this Performance Goal. The project was initiated and completed to enable more efficient oversight of agreement activities and competitive trade conditions. In completing this redesign, the agency conducted an audit of all effective carrier agreements to identify the various agreement authorities contained in each. The agreement records in the database were updated to capture all relevant authorities. A new report functionality and an expanded lookup table were developed to identify agreements with specific authorities, particularly those affecting competitive conditions and that may have potential to distort markets. As a result of the redesign of this system, the agency can more efficiently and expeditiously generate reports that identify those agreements that are most likely to have a competitive impact on U.S. trade lanes.

Performance Goal 3:

Review results of major enforcement actions (e.g., those targeted at anti-competitive practices of ports and ocean common carriers) during the past three years to assess effectiveness of remedies.

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Progress in Achieving Performance Goals (continued)

Progress: This goal was achieved by reviewing and reporting on the six enforcement actions which targeted anti-competitive practices of ports and ocean common carriers during the three-year period 2002 through 2005. During the course of this review, the agency's BOE, along with its BTA, examined the records pertaining to each enforcement action and analyzed the corresponding reports, minutes, and activities of the entities involved with respect to implementation of agreed provisions and continued compliance by affected entities. The review also included a current survey of the markets affected by the proceedings.

Performance Goal 4:

Develop additional relationships with other agencies with responsibilities related to maritime security, including DHS, DOT and intelligence agencies.

Progress: We continue to reach out to other agencies, including DHS, DOT and intelligence agencies, to discuss information sharing and other possible FMC contributions with regard to identifying potential security threats related to the maritime industry generally. In particular, the agency has an MOU with CBP. The agency is also an active participant in the development of CBP's ACE/ITDS, which proposes to capture, and then integrate, the data needs and timing requirements of all licenses, permits and certificates required by CBP and other participating government agencies. Commission representatives participating in the ACE/ITDS business process are working with CBP and its e-Customs Partnership consultants to ascertain how the Trade Act requirements, and equivalent 1984 Act mandates, can be integrated into the ACE system to assist CBP in identifying compliant NVOCCs.

Strategic Goal: Technological Efficiencies

Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

Performance Goal 1:

Enhance the reliability and efficiency of SERVCON by ensuring that filers use proper electronic document file names to identify each SC submission. In addition, implement other changes to flag contract documents transmitted into the SERVCON system with problems, e.g., retroactive effective date. This performance goal is being modified to accelerate the streamlining and usefulness of the system for anticipated short- and long-term growth.

Progress: This Performance Goal has been achieved. Enhancements to SERVCON, the Commission's Internet-based service contract filing system, have been made to ensure that contracts submitted are properly filed and that the data filed is in a format that is useful for the Commission's oversight purposes. Enhancements were made to the validity checks feature contained in SERVCON to flag service contract documents filed with errors, such as a retroactive effective date and invalid organization number. A list of any such filings can be obtained from reports generated from the SERVCON system. Further, any contract document submitted without a proper electronic document file name or amendment number is not accepted for filing in SERVCON. When this occurs, the filer receives an error message and must correct the problem before attempting to resubmit the contract. The SERVCON system has been brought in-house and additional changes have been made to improve its search capability and overall performance. For example, a new SQL Server search engine is being used to increase the speed and reliability of search results. In connection with this, historical contract documents filed in SERVCON between April 1999 through December 31, 2001, have been archived and are available via other electronic media. Numerous other enhancements are being developed which will further accelerate the streamlining and usefulness of the system for the anticipated short- and long-term growth of filings of both service contracts and NVOCC Service Arrangements. For example, the menu selection screens are being realigned in the system to be more user friendly allowing agency staff to sort contract documents by organization and contract numbers, as well as effective dates of original contracts and filer names.

PROGRAM PERFORMANCE



Progress in Achieving Performance Goals (continued)

Performance Goal 2:

Assure that 95 percent of the security on agency systems is in conformance with Administration and Congressional mandates.

Progress: The FMC has upgraded all network security tools over the last year and most systems requiring security have been enhanced. Over 95 percent of agency systems are in conformance with Administration and Congressional mandates. During the fiscal year, the FMC incorporated security into the FMC infrastructure. Personnel and technical controls were established to improve the integrity, availability, and confidentiality of FMC information. The agency has put in place processes and controls that complement the FMC's business operations. These same controls and processes have been developed and implemented following OMB policies, NIST guidance, privacy policies, and other policies and mandates.

Performance Goal 3:

Analyze the current FMC Internet website and develop a plan to create a more efficient and comprehensive design.

Progress: During the fiscal year, the Commission exceeded this goal. Not only did the Commission analyze its old website and develop a plan to re-design the site, a team of Commission staff were assembled and met throughout the fiscal year and worked with an outside contractor to create a new, more efficient, comprehensive and citizen-centered website. The Commission launched its new website on August 18, 2005. The look and functionality of the new website is significantly different from the Commission's old site, and most of the information from the old site was reorganized and updated to improve transparency and flow of information. Content was organized by areas of interest and by regulated entity, making it easier to find information.

Strategic Goal: Management Capabilities

Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

Performance Goal 1:

Implement an IT CPIC process for the Commission's major IT investments.

Progress: The FMC has implemented an IT CPIC process. Serving as the CPIC control board, the FMC's SES officials are responsible for ensuring that all major IT investments fall within the goals of the agency and will support the needs of internal and external users. All major IT investments are presented to the CPIC/SES by the CIO for review and approval of funding and staff resources, with a final approving decision required from the Chairman before any IT projects can be initiated.

Performance Goal 2:

Complete implementation of strategic linkage of agency planning, budgeting and performance.

PROGRAM PERFORMANCE



Progress in Achieving Performance Goals (continued)

Progress: The agency was very successful in completing its objective of linking planning, budgeting, and performance as part of its everyday business model. Building on our recent past efforts, we appropriately aligned these activities in FY 2005. For the first time, we conducted an agencywide analysis of our strengths, weaknesses, opportunities, and threats (SWOTs), so as to identify necessary actions and desirable initiatives, along with budgeting needs to accomplish same. All budget planning, decision-making, and actions then were predicated on meeting our established agency priorities, as opposed to singular unit goals. Resource allocations (FTEs, equipment, IT, etc.) were considered jointly by senior management, who made recommendations to the Chairman for the most effective deployment in line with our established performance goals. Planning meetings were expanded to include Deputy Directors, to broaden our perspectives and help cascade down all operational approaches and policy changes. Finally, we undertook a wholesale review of our performance management system so as to ensure that it was a useful tool for developing employees, guiding careers, and assessing agency and employee progress in achieving stated objectives. We plan to culminate this effort in FY 2006 with a refined and simplified system that clearly conveys expectations, can be easily administered, and further ties performance to our planning and budgeting. Our success in aligning these activities has facilitated accomplishment of our statutory mission, and established a business process that enables us continually to enhance performance and produce positive, meaningful results.

FY 2003 and 2004 Performance Goals Not Achieved

Prior to FY 2005, Performance Goals were listed by Budget Program Activity rather than by Strategic Goal.

This section discusses the goals from our FY 2003 Annual Performance Plan which we reflected in our FY 2003 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

Performance Goal 3 (Certification and Licensing Program Activity)

Enhance informal complaint database to include more specific details on type of complaints against cruise operators.

Progress: After a number of attempts to modernize the existing informal complaint database, it was determined that it would be more productive to design a completely new database using more modern software. The initial design, query and reports capability was completed and a pilot begun in September 2005. The pilot database currently is being tested and evaluated. Initial results from the testing phase have resulted in a number of system modifications including adding additional query and reporting features for the users. It is expected that the system will be fully operational (incorporating necessary enhancements) in the near future. We plan to reevaluate the system after an appropriate period, and modify programming as the system is being used.

Performance Goal 1 (Trade Analysis Program Activity)

By 12/31/02, further develop and apply updated ocean carrier constructive costs benchmark to be taken into account in analyses of controlled carrier rate activity under section 9 of the 1984 Act, as amended by OSRA.

Progress: This Performance Goal has been completed. As reported in the Commission's Annual Program Performance Report for FY 2004, the staff prepared a proposed revised controlled carrier monitoring program that included a suggested methodology for deriving and validating the constructive costs of a controlled carrier. Over FY 2005, the staff re-examined its updated constructive costs benchmark methodology and ensured that developments in FY 2004 relating to those carriers that are classified as controlled were accounted for in the proposal.

PROGRAM PERFORMANCE



Progress in Achieving Performance Goals (continued)

This section discusses the goals from our FY 2004 Annual Performance Plan which we reflected in our FY 2004 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

Performance Goal 1 (Certification and Licensing Program Activity):

By 9/30/04, modernize the FMC's RPI database.

Progress: While the Commission has not completed this goal, it has made substantial progress towards implementing an updated RPI database system. A beta version of the modernized RPI is now in testing. The modernized RPI system will be completed and placed in operation during the first half of FY 2006.

Performance Goal 2 (Certification and Licensing Program Activity):

Complete a rulemaking by 9/30/04 that makes the changes necessary to ensure that PVOs' financial responsibility requirements for nonperformance are providing appropriate protection for the public.

Progress: Commission staff met on a number of occasions in FY 2005 to discuss the status of the proposed rule and concerns raised by stakeholders in the public comments received in response to the rulemaking. In an effort to identify alternative options and approaches to assess the level of financial coverage needed to protect cruise passengers, the staff has conducted additional analysis of financial information related to certain cruise lines' operations, as well as other benchmark financial indicators. Staff efforts will remain ongoing as the Commission continues its pursuit of an updated Rule that ensures appropriate PVO financial responsibility without undue financial costs upon the cruise industry.

PROGRAM PERFORMANCE



Addressing the President's Management Agenda

Overview

The President's Management Agenda is comprised of five Government-wide initiatives to improve Government performance in 1) strategic management of human capital, 2) budget and performance integration, 3) competitive sourcing, 4) expanded electronic government, and 5) improved financial management. The FMC has made strides in a number of these areas.

Strategic Management of Human Capital

In the last quarter of FY 2004, the FMC implemented a realignment to improve operations and to more effectively and efficiently implement the agency's strategic goals. These changes included a realignment of staff, including changes in the FMC's organizational structure.

The FMC offers a range of flexible work options and employee-friendly and family-friendly programs and policies. These programs include transit subsidies, employee assistance, and adjustable work schedules, among others. Managers are encouraged to review their staff's critical skills and to target training to improve expertise. The FMC recently initiated a policy of reimbursing employees up to a certain dollar threshold for college classes which will improve skills needed in the workplace.

The FMC's recruitment practices utilize a wide range of alternatives such as those under the Direct-Hire Authority, delegated examining, and the Veterans Employment Opportunities Act, and the agency administers action on e-Government initiatives such as Recruitment One-Stop, e-payroll, Enterprise Human Resources Integration, and e-learning.

Budget and Performance Integration

The FMC continues to make progress in achieving budget and performance integration. The Strategic Plan and Annual Performance Plan represent the fundamental framework for the agency's planning and budgeting activities. In the FMC's FY 2005 Performance Plan, performance goals were aligned with the agency's strategic goals for the first time, a major change from previous plans which aligned performance goals by agency program. Funding and FTE levels also were integrated into the performance planning document by strategic goal, to identify clearly the budgetary and staff resources that are devoted to each goal.

FMC program managers currently receive reports which show the full cost of their programs. These reports allow managers to plan and manage their programs better throughout the budget year.

Competitive Sourcing

The FMC is committed to acquiring goods and services in an efficient manner. The FMC submitted its FY 2005 Federal Activities Inventory Reform Act Inventory to OMB in June 2005. The Inventory identifies 78 of the agency's 133 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

The Commission is a very small agency whose personnel perform many different activities. The number of FTEs has declined from 199 in 1993 to 133 in 2005. One way in which the Commission has been able to streamline and improve efficiencies is by committing budgetary resources to a variety of contracts for support services, including interagency/cross-service and commercial agreements for payroll, accounting, human resources processing, travel, health, excessing property, security guard, transit benefits, office space rent, messenger, and equipment maintenance services.

PROGRAM PERFORMANCE



Competitive Sourcing (continued)

The Commission determined that a core component of in-house resources are needed for the Commission to carry out its statutory responsibilities. It is essential that the Commission, as an independent agency with regulatory responsibilities, has a core group of technically qualified individuals to monitor, analyze and investigate conditions in the U.S. foreign commerce and activities of the maritime industry. It also is critical that the agency has sufficient in-house staff that are knowledgeable and impartial in their dealings with foreign governments, the industry, Congress and other Government agencies. Therefore, the Chairman made the determination, as in years past, to list those 78 FTEs as exempt from competition (Reason Code A), i.e., the commercial activities are not appropriate for private sector performance.

The Commission is committed to improving and streamlining operations to carry out its mission and strategic goals, as is proven by its decreasing FTEs over a period of years.

Expanded Electronic Government

The FMC has planned and continues to implement the expansion of electronic government. A major accomplishment during FY 2005 was the unveiling of the agency's new, expanded, updated and more user-friendly public website. This project has significantly improved the effectiveness of the website and the efficiency with which users can navigate and access needed information and obtain the services they need. By redesigning the website, the FMC has improved one avenue of communications with the public and its stakeholders.

Senior managers are aware of the requirements and benefits of electronic government and are planning and initiating program changes to incorporate the expanded use of electronic government in day-to-day activities. The FMC has instituted an information technology security training and awareness program; all employees are required to complete an online information technology security refresher course on an annual basis. In FY 2005, the FMC's SERVCON system was re-written to provide greater functionality and increased security features. Network and security upgrades were effected to provide an upgraded platform for the delivery of electronic services to agency staff and stakeholders.

In FY 2004 and FY 2005, the FMC committed the resources necessary to stabilize and improve its network infrastructure and security, to improve its information technology services to FMC staff, to formalize numerous documents related to security, and to generally improve the information technology program, as a core requirement for the ongoing efforts to upgrade and improve the FMC's posture to address e-government initiatives. The FMC developed its Enterprise Architecture to formally define its IT functionality. The FMC has implemented a Capital Planning and Investment Control process, and has formalized its Systems Development Life Cycle process. The FMC is committed to continuing its integration of these information technology policies and procedures, and to continuing to expand opportunities for e-government activities. In so doing, the FMC mitigated a material weakness identified in an earlier FMFIA Report. In FY 2005, the FMC continued to implement corrective actions to maintain compliance with the Federal Information Security Management Act ("FISMA"). Two material weaknesses which were identified during a FISMA audit in a previous fiscal year were addressed during FY 2005, with significant progress being made in each instance to formally correct them.

Improved Financial Performance

The FMC received an unqualified opinion on its financial statements in FY 2005, for the second straight year. The FMC will continue to strive to achieve unqualified audit opinions.

In support of the e-government initiative, the FMC has interagency agreements with the BPD to provide general-ledger accounting, travel, procurement and financial reporting services, and the NFC to provide payroll services.

Our current systems satisfy operational and reporting requirements and provide timely, accurate and useful information to the agency. The FMC's systems are in substantial compliance with Federal laws and regulations.

CHAPTER THREE



AUDITORS' REPORTS AND FINANCIAL STATEMENTS



Fiscal Year 2005

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Message from the Chief Financial Officer

I am pleased to present the FMC's financial statements for FY 2005. Our independent auditor has rendered an unqualified opinion on our FY 2005 financial statements. The FMC now has received an unqualified opinion in each of the two years in which independent financial audits have been conducted, which attests to the FMC's commitment to high quality financial management.

The FMC's financial condition is sound with respect to having sufficient funds to meet its mission and having sufficient internal controls in place to ensure its budget authority is not exceeded.

The Chairman of the FMC has streamlined our business processes and more fully integrated senior managers into the budget planning and execution process, as well as developed greater management accountability within the context of a collaborative strategic planning process. Through these efforts and the teamwork of program, financial management, and audit staff, we continue to be successful in achieving our goals and ensuring that our operations provide timely and reliable information that is used to promote results, accountability, and efficiency. For FY 2005, corrective actions were completed on a number of recommendations and closed. Quarterly financial statements were issued 15 days after the end of the quarter, and our FY 2005 Performance and Accountability Report is being published on November 15, 2005.

As reported more fully in *Chapter 1* in the section entitled *Federal Managers' Financial Integrity Act*, the Commission has two open material weaknesses for which final corrective action is planned for the near future. We anticipate no major impediments to the correction of those weaknesses.

The FMC is committed to effective and efficient management of agency resources. Our strategies for improving financial management are centered on maintaining an unqualified audit opinion and eliminating remaining material weaknesses.

I anticipate that in FY 2006 the FMC will continue its high level of quality financial management, and that we will repeat our past success.

Sincerely,



Bruce A. Dombrowski
November 15, 2005



AUDITORS' REPORTS AND FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

LIMITATIONS OF THE FINANCIAL STATEMENTS

The principal statements have been prepared to report the financial position and results of operations of the FMC, pursuant to the requirements of the Chief Financial Officers Act of 1990, as amended by the Government Management Reform Act of 1994. These statements have been prepared from the books and records of the FMC in accordance with the formats prescribed by the Office of Management and Budget. However, these statements differ from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records. The principal statements should be read with the realization they are for a component of the U.S. Government, a sovereign entity. Liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and the payment of all liabilities other than for contracts can be abrogated by the sovereign entity. Other limitations are included in the footnotes to the principal statements. The accompanying notes are an integral part of these statements.

The Federal Maritime Commission's financial statements were audited by Clifton Gunderson LLP, under contract to the FMC's Office of the Inspector General.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report



Independent Auditor's Report

To the Federal Maritime Commission

We have audited the accompanying balance sheets of the Federal Maritime Commission (FMC) as of September 30, 2005 and 2004, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the years then ended (collectively the financial statements). These financial statements are the responsibility of FMC's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to the financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above, present fairly, in all material respects, the financial position of FMC as of September 30, 2005 and 2004 and its net cost; changes in net position; budgetary resources; reconciliation of net cost to budgetary obligations; and custodial activity for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our reports dated October 27, 2005 on our consideration of FMC's internal control over financial reporting, and on our tests of FMC's compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of our audits performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audits.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report (continued)

Our audits were made for the purpose of forming an opinion on the basic financial statements taken as a whole. The Management Discussion and Analysis and Trading Partner Information are not a required part of the basic financial statements but are supplementary information required by Circular A-136, *Financial Reporting Requirements*. We have applied certain limited procedures to such information, which consisted principally of inquiries of FMC management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it.

Clifton Henderson LLP

Calverton, Maryland

October 27, 2005

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report on Compliance with Laws and Regulations



Independent Auditor's Report on Compliance with Laws and Regulations

To the Federal Maritime Commission

We have audited the financial statements of the Federal Maritime Commission (FMC), as of and for the year ended September 30, 2005 and have issued our report thereon dated October 27, 2005. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

The management of FMC is responsible for complying with laws and regulations applicable to FMC. As part of obtaining reasonable assurance about whether FMC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material affect on the determination of financial statement amounts and certain other laws and regulations specified in OMB Bulletin No. 01-02, including the requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996 (as codified in 31 U.S.C. 3512). We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to FMC.

The results of our tests of compliance with laws and regulations described in the preceding paragraph, exclusive of FFMIA, disclosed no instances of noncompliance with laws and regulations that are required to be reported under *Government Auditing Standards* and OMB Bulletin No. 01-02.

Under FFMIA, we are required to report whether FMC's financial management systems substantially comply with the Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA section 803(a) requirements. The results of our tests disclosed no instances in which FMC's financial management systems did not substantially comply with the three requirements discussed in the preceding paragraph.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report on Compliance with Laws and Regulations (continued)

This report is intended solely for the information and use of the management of FMC, the Bureau of Public Debt, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Clifton Gunderson LLP

Calverton, Maryland
October 27, 2005

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report on Internal Controls



Independent Auditor's Report on Internal Control

To the Federal Maritime Commission

We have audited the financial statements of the Federal Maritime Commission (FMC), as of and for the year ended September 30, 2005, and have issued our report thereon dated October 27, 2005. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to the financial audits contained in *Government Auditing Standards*; issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audit, we considered FMC's internal control over financial reporting by obtaining an understanding of FMC's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act (31 U.S.C. 3512), such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not provide an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect FMC's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted no matters involving the internal control and its operation that we consider to be material weaknesses as defined above. We did note certain matters involving internal control and its operation that we have reported to management of FMC in a separate letter dated October 27, 2005.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report on Internal Controls (continued)

Finally, with respect to internal controls related to performance measures reported in FMC's Management's Discussion and Analysis, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 01-02. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

This report is intended solely for the information and use of the management of FMC, the Bureau of Public Debt, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Clifton Henderson LLP

Calverton, Maryland
October 27, 2005

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION BALANCE SHEETS September 30, 2005 and 2004

	<u>2005</u>	<u>2004</u>
ASSETS		
Intragovernmental - Fund balance with Treasury (Note 2)	\$ 2,217,146	\$ 1,849,004
Accounts receivable, net	2,021	749
Property and equipment, net (Note 3)	<u>50,439</u>	<u>112,435</u>
TOTAL ASSETS	<u>\$ 2,269,606</u>	<u>\$ 1,962,188</u>
LIABILITIES		
Intragovernmental liabilities (Note 4)	\$ 103,597	\$ 82,361
Accounts payable (Note 4)	89,197	102,935
Other (Note 4)	<u>1,764,755</u>	<u>1,520,052</u>
Total liabilities	<u>1,957,549</u>	<u>1,705,348</u>
NET POSITION		
Unexpended appropriations	1,231,683	1,124,548
Cumulative results of operations	<u>(919,626)</u>	<u>(867,708)</u>
Total net position	<u>312,057</u>	<u>256,840</u>
TOTAL LIABILITIES AND NET POSITION	<u>\$ 2,269,606</u>	<u>\$ 1,962,188</u>

The accompanying notes are an integral part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
STATEMENTS OF NET COST
For The Years Ended September 30, 2005 and 2004**

	<u>2005</u>	<u>2004</u>
PROGRAM COSTS		
Intragovernmental costs	\$ 7,140,709	\$ 6,428,754
Costs with the public	<u>13,270,708</u>	<u>12,635,332</u>
Total Program Costs (Note 7)	20,411,417	19,064,086
COSTS NOT ASSIGNED TO PROGRAMS	<u>-</u>	<u>-</u>
NET COST OF OPERATIONS	<u>\$ 20,411,417</u>	<u>\$ 19,064,086</u>

The accompanying notes are an integral
part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION
STATEMENTS OF CHANGES IN NET POSITION
For The Years Ended September 30, 2005 and 2004

	2005		2004	
	Cumulative Results of Operations	Unexpended Appropriations	Cumulative Results of Operations	Unexpended Appropriations
BEGINNING BALANCES	\$ (867,708)	\$ 1,124,548	\$ (825,829)	\$ 566,979
BUDGETARY FINANCING SOURCES				
Appropriations received	-	19,496,000	-	18,471,000
Other adjustments (rescissions, etc.)	-	(193,698)	-	(127,810)
Appropriations used	19,195,167	(19,195,167)	17,785,621	(17,785,621)
OTHER FINANCING SOURCES				
Imputed financing from costs absorbed by others (Note 8)	<u>1,164,332</u>	<u>-</u>	<u>1,236,586</u>	<u>-</u>
TOTAL FINANCING SOURCES	<u>20,359,499</u>	<u>107,135</u>	<u>19,022,207</u>	<u>557,569</u>
NET COST OF OPERATIONS	<u>20,411,417</u>	<u>-</u>	<u>19,064,086</u>	<u>-</u>
ENDING BALANCES	\$ (919,626)	\$ 1,231,683	\$ (867,708)	\$ 1,124,548

The accompanying notes are an integral
part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
STATEMENTS OF BUDGETARY RESOURCES
For The Years Ended September 30, 2005 and 2004**

	<u>2005</u>	<u>2004</u>
BUDGETARY RESOURCES		
Budget authority - appropriations received	\$ 19,496,000	\$ 18,471,000
Unobligated balance - beginning of period	<u>191,241</u>	<u>87,073</u>
Subtotal	19,687,241	18,558,073
Recoveries of prior year obligations	129,186	152,262
Permanently not available:		
Cancellations of expired and no-year accounts	(37,730)	(18,831)
Pursuant to public law	<u>(155,968)</u>	<u>(108,979)</u>
Total Budgetary Resources	<u>\$19,622,729</u>	<u>\$18,582,525</u>
STATUS OF BUDGETARY RESOURCES		
Obligations incurred – Direct – Category A	\$ 19,441,873	\$ 18,391,284
Unobligated balance apportioned	1,302	22,987
Unobligated balances not available (Note 2)	<u>179,554</u>	<u>168,254</u>
Total Status of Budgetary Resources	<u>\$19,622,729</u>	<u>\$18,582,525</u>
RELATIONSHIP OF OBLIGATIONS TO OUTLAYS		
Obligated balance, net – beginning of period	\$ 1,657,763	\$ 1,440,560
Obligated balance, net – end of period:		
Undelivered orders	1,050,826	933,307
Accounts payable and accrued liabilities (Note 4)	<u>\$ 985,463</u>	<u>\$ 724,456</u>
Outlays:		
Disbursements	\$ 18,934,161	\$ 18,021,819
Less offsetting receipts	<u>-</u>	<u>-</u>
Net Outlays	<u>\$18,934,161</u>	<u>\$18,021,819</u>

The accompanying notes are an integral
part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION STATEMENTS OF FINANCING For The Years Ended September 30, 2005 and 2004

	<u>2005</u>	<u>2004</u>
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
Obligations incurred	\$ 19,441,873	\$ 18,391,284
Less: spending authority from offsetting collections and recoveries	<u>(129,186)</u>	<u>(152,262)</u>
Obligations net of offsetting collections and recoveries	19,312,687	18,239,022
Less offsetting receipts/collections	<u>-</u>	<u>-</u>
Net obligations	19,312,687	18,239,022
Other resources - imputed financing from costs absorbed by others	<u>1,164,332</u>	<u>1,236,586</u>
Total Resources Used to Finance Activities	<u>20,477,019</u>	<u>19,475,608</u>
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE COST OF OPERATIONS		
Change in budgetary resources obligated for goods, services and benefit orders not yet received	117,519	453,401
Resources that fund expenses recognized in prior periods	9,587	(1,428)
Resources that finance the acquisition of assets	<u>-</u>	<u>29,514</u>
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>127,106</u>	<u>481,487</u>
Total Resources Used to Finance the Net Cost of Operations	<u>20,349,913</u>	<u>18,994,121</u>
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Period:		
Increase in annual leave liability	-	1,909
Other	<u>644</u>	<u>-</u>
Total Components of Net Cost of Operations that Will Require or Generate Resources in Future Periods	644	1,909
Components Not Requiring or Generating Resources:		
Depreciation and amortization	61,996	68,056
Other	<u>(1,136)</u>	<u>-</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	<u>60,860</u>	<u>68,056</u>
Total Components of Net Cost of Operations That Will Not Require or General Resources in the Current Period	<u>61,504</u>	<u>69,965</u>
NET COST OF OPERATIONS	<u>\$ 20,411,417</u>	<u>\$ 19,064,086</u>

The accompanying notes are an integral part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
STATEMENTS OF CUSTODIAL ACTIVITY
For The Years Ended September 30, 2005 and 2004**

	<u>2005</u>	<u>2004</u>
REVENUE ACTIVITY		
Cash collections	\$ 1,194,366	\$ 3,394,935
Accrual adjustments	<u>1,734</u>	<u>(1,952)</u>
Total Custodial Revenue	\$ 1,196,100	\$ 3,392,983
DISPOSITION OF COLLECTIONS		
Transferred to Treasury	1,195,964	3,393,326
Other	<u>136</u>	<u>(343)</u>
NET CUSTODIAL ACTIVITY	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes are an integral
part of these financial statements.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION NOTES TO FINANCIAL STATEMENTS September 30, 2005 and 2004

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC) was established as an independent regulatory agency effective August 12, 1961. FMC is responsible for the regulation of ocean borne transportation in the foreign commerce of the United States (U.S.). The principle statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, the Foreign Practices Act of 1988, and section 19 of the Merchant Marine Act of 1920, and Public Law No. 98-777. Most of these statutes were modified by the passage of the Ocean Shipping Reform Act of 1998, which took effect in 1999.

FMC monitors the activities of ocean common carriers, marine terminal operators, conferences, ports and ocean transportation intermediaries (OTIs) (non-vessel operating common carriers and ocean freight forwarders) who operate in the foreign commerce of the U.S. and monitor these activities to ensure they maintain just and reasonable practices. FMC maintains a trade monitoring and enforcement program designed to detect and appropriately remedy malpractices and violations. FMC monitors the laws and practices of foreign governments which could have discriminatory or otherwise requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements and service contracts for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility and accuracy as required by the Ocean Shipping Reform Act of 1998. FMC also issues licenses to qualified OTIs in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators demonstrate adequate financial responsibility for casualty and nonperformance.

FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. The President designates one of the Commissioners to serve as Chairman, who is also the chief executive and administrative officer of FMC.

General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues.

General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

FMC has rights and ownership of all assets reported in these financial statements. There are no non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, status and availability of budgetary resources, and the reconciliation between proprietary and budgetary accounts of FMC. The statements are a

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION NOTES TO FINANCIAL STATEMENTS September 30, 2005 and 2004

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, the Accountability of Tax Dollars Act of 2002 and the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular No. A-136, *Financial Reporting Requirements* and FMC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control FMC's use of budgetary resources.

The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, Statement of Financing, and the Statement of Custodial Activity. In accordance with OMB Circular A-136, the financial statements and associated notes are presented on a comparative basis.

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit FMC to incur obligations for authorized purposes. In fiscal years 2005 and 2004, FMC was accountable for General Fund appropriations. FMC recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. These financial statements were prepared following accrual accounting. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control FMC's use of budgetary resources.

E. Revenues & Other Financing Sources

Congress enacts annual appropriations to be used, within statutory limits, for operating and capital expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION NOTES TO FINANCIAL STATEMENTS September 30, 2005 and 2004

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Appropriations are recognized as a financing source when expended. Revenues from service fees associated with reimbursable agreements are recognized concurrently with the accrued expenditures for performing the services. Appropriations expended for capitalized property and equipment are recognized as expenses when an asset is consumed in operations.

FMC recognizes as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on our behalf by the Office of Personnel Management (OPM).

There are no earned revenues in fiscal year 2005 or 2004.

F. Taxes

FMC, as a federal entity, is not subject to Federal, State, or local income taxes, and, accordingly, no provision for income taxes has been recorded in the accompanying financial statements.

G. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. FMC does not maintain cash in commercial bank accounts or foreign currency balances.

H. Accounts Receivable

Accounts receivable consists of amounts owed to FMC by other federal agencies and the public. Amounts due from federal agencies are considered fully collectible. Accounts receivable in the Salaries and Expense Fund represents an employee related receivable. An allowance for uncollectible accounts receivable from the public is established when either (1) based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent.

I. Property and Equipment, Net

FMC's property and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. FMC's capitalization threshold is \$25,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, and equipment. The useful life classifications for capitalized equipment assets is five years.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION NOTES TO FINANCIAL STATEMENTS September 30, 2005 and 2004

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

J. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

K. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available Congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against FMC by other federal agencies. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as Components Requiring or Generating Resources on the Statement of Financing. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

Accounts payable consists of amounts owed to other federal agencies and the public.

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employee's Retirement System (FERS)-covered employees.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION NOTES TO FINANCIAL STATEMENTS September 30, 2005 and 2004

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

N. Accrued Workers' Compensation

A liability is recorded for actual and estimated future payments to be made for workers' compensation pursuant to the Federal Employees' Compensation Act (FECA). The actual costs incurred are reflected as a liability because FMC will reimburse the Department of Labor (DOL) two years after the actual payment of expenses. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

O. Retirement Plans

FMC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). FERS was established by the enactment of Public Law 99-335. Pursuant to this law, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired before January 1, 1984 elected to join either FERS and Social Security or remain in CSRS.

All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and FMC makes a mandatory one percent contribution to this account. In addition, FMC makes matching contributions, ranging from 1 to 4 percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees.

FERS went into effect on January 1, 1987. FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1984 elected to join either FERS and Social Security, or remain in CSRS. FERS offers a savings plan to which FMC automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, FMC also remits the employer's share of the required contribution.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, FMC remits the employer's share of the required contribution.

FMC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicates these factors to FMC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. FMC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS**FEDERAL MARITIME COMMISSION
NOTES TO FINANCIAL STATEMENTS
September 30, 2005 and 2004****NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

FMC does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM.

P. Use of Estimates

Management has made certain estimates when reporting assets, liabilities, revenue, and expenses, and in the note disclosures. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Q. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. FMC recognized imputed costs and financing sources in fiscal years 2005 and 2004 to the extent directed by OMB.

R. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. FMC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made. There are no contingencies that require disclosure.

S. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
NOTES TO FINANCIAL STATEMENTS
September 30, 2005 and 2004**

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

T. Reclassifications

Certain fiscal year 2004 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with current year presentation.

NOTE 2 – FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2005 and 2004 were:

	<u>2005</u>	<u>2004</u>
Fund Balances:		
Appropriated Funds	\$ 2,217,146	\$ 1,849,004
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	\$ 1,302	\$ 22,987
Unavailable	179,554	168,254
Obligated Balance not yet Disbursed	<u>2,036,290</u>	<u>1,657,763</u>
Total	<u>\$ 2,217,146</u>	<u>\$ 1,849,004</u>

Restricted unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

NOTE 3 – PROPERTY AND EQUIPMENT

Property and equipment (office) account balances as of September 30, 2005 and 2004 were as follows:

	<u>2005</u>	<u>2004</u>
Acquisition Cost	\$ 419,982	\$ 419,982
Less Accumulated Depreciation	<u>369,543</u>	<u>307,547</u>
Net Book Value	<u>\$ 50,439</u>	<u>\$ 112,435</u>

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
NOTES TO FINANCIAL STATEMENTS
September 30, 2005 and 2004**

NOTE 4 – LIABILITIES

The accrued liabilities for FMC are comprised of program expense accruals, payroll accruals, and annual leave (funded and unfunded) earned by employees. Program expense accruals represent expenses that were incurred prior to year-end but were not paid. Similarly, payroll accruals represent payroll expenses that were incurred prior to year-end but were not paid.

	<u>2005</u>	<u>2004</u>
Intragovernmental		
Accrued Liabilities	\$ 10,130	\$ 10,381
Payroll Taxes Payable	82,970	71,980
Other	10,497	-
Total Intragovernmental	<u>\$ 103,597</u>	<u>\$ 82,361</u>
Accounts Payable	\$ 89,197	\$ 102,935
Accrued Liabilities	107,213	146,461
Payroll Accrual	677,524	385,739
Unfunded Annual Leave	970,557	980,143
Payroll Taxes Payable	10,396	8,558
Custodial Liabilities	(935)	(849)
Total Liabilities	<u>\$ 1,957,549</u>	<u>\$ 1,705,348</u>

All liabilities are current liabilities.

NOTE 5 – LEASES

FMC occupies office space under five different lease agreements that are accounted for as operating leases. The lease locations and terms are listed below:

<u>LOCATION</u>	<u>TERM</u>	<u>LEASE EXPIRATION DATE</u>
Washington DC	10 years	11/02/2012
Jamaica, New York	5 years	01/01/2007
San Pedro, CA	indefinite	-
Seattle, WA	2 years	06/01/2006
Hallandale, FL	2 years	09/01/2005

The lease amounts vary from year to year depending on the specific lease. The total operating lease expense for fiscal years 2005 and 2004 was \$2,942,031 and \$2,914,609, respectively. Below is a schedule of future payments for the term of the leases.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
NOTES TO FINANCIAL STATEMENTS
September 30, 2005 and 2004**

NOTE 5 – LEASES (CONTINUED)

Operating Leases

<u>Fiscal Year</u>	<u>Building</u>
2006	\$ 2,928,626
2007	2,928,729
2008	2,939,612
2009	2,956,133
2010	2,973,149
Thereafter	<u>6,250,361</u>
Total Future Payments	<u>\$ 20,976,610</u>

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 6 – LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on FMC's Balance Sheet as of September 30, 2005 and 2004, include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities. There are no intragovernmental liabilities not covered by budgetary resources. Other liabilities not covered by budgetary resources consist entirely of unfunded leave. Unfunded leave balances are \$970,557 and \$980,143 as of September 30, 2005 and 2004, respectively.

NOTE 7 – OPERATING/PROGRAM COSTS

Costs by major budgetary object classification for the years ended September 30, 2005 and 2004 are as follows:

<u>Budgetary Object Classifications</u>	<u>2005</u>	<u>2004</u>
Personnel and Benefits	\$ 15,251,813	\$ 14,636,319
Travel and Transportation	118,831	129,358
Rents, Communication & Utilities	2,913,919	2,676,377
Printing and Contractual Services	127,599	93,346
Supplies and Materials	238,064	200,375
Equipment	215,188	349,714
Miscellaneous	<u>1,546,003</u>	<u>978,597</u>
Total	<u>\$ 20,411,417</u>	<u>\$ 19,064,086</u>

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AUDITORS' REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION
NOTES TO FINANCIAL STATEMENTS
September 30, 2005 and 2004

NOTE 8 – IMPUTED FINANCING SOURCES

FMC recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management (OPM). For the fiscal years ended September 30, 2005 and 2004, respectively, imputed financing from OPM were \$1,164,332 and \$1,236,586.

NOTE 9 – BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The 2007 Budget of the United States Government, with the Actual Column completed for fiscal year 2005, has not yet been published as of the date of these financial statements. The Budget is expected to be published and delivered to Congress in early February 2006. The 2006 Budget of the United States Government, with the Actual Column completed for 2004, has been reconciled.

NOTE 10 – CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for another entity or the General Fund. As a collecting entity, FMC measures revenue based on cash collection and refunds. This revenue is reported as custodial activity on the "Statement of Custodial Activity." The type of cash collected is for fines, penalties and administrative fees. A small portion is for interest on the past due fines. Another part of the custodial activity is application for licenses issued to qualified ocean transportation intermediaries (OTI's) in the U.S., commission reviews, petitions, status changes and special permission fees.

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

REQUIRED SUPPLEMENTARY INFORMATION (RSI)

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

**FEDERAL MARITIME COMMISSION
REQUIRED SUPPLEMENTARY INFORMATION
TRADING PARTNER INFORMATION
As of and For The Year Ended September 30, 2005**

Agency	Treasury Financial Mgmt. Dept. Code	ASSETS		LIABILITIES			Total	FISCAL 2005 ACTIVITY
		Fund Balance w/Treasury	Total	Accounts Payable	Payroll Taxes	Other		Gross Cost
Library of Congress	3	\$ -	\$ -	\$ 2,078	\$ -	\$ -	\$ 2,078	\$ 24,365
US Government Printing Office	4	-	-	-	-	-	-	121,592
US Dept. of Agriculture	12	-	-	-	-	-	-	18,418
Department of Commerce	13	-	-	-	-	-	-	379
Department of the Interior	14	-	-	-	-	-	-	575
Department of Labor	16	-	-	-	-	8,678	8,678	9,478
United States Postal Service	18	-	-	-	-	-	-	(412)
Dept. of Treasury	20	2,127,146	2,127,146	9,871	-	-	9,871	280,252
Office of Personnel Management	24	-	-	-	64,593	-	64,593	2,900,116
General Services Administration	47	-	-	-	-	-	-	2,855,911
Department of Transportation	69	-	-	-	-	-	-	69,774
Dept. of Health & Human Services	75	-	-	-	-	-	-	319,143
Housing and Urban Development	86	-	-	-	-	-	-	16,237
Federal Energy Regulatory Commission	89	-	-	-	-	-	-	3,480
Federal Mediation & Council Services	93	-	-	-	-	-	-	2,000
General Fund of the Treasury	99	-	-	-	18,377	-	18,377	519,401
Total		<u>\$ 2,127,146</u>	<u>\$ 2,127,146</u>	<u>\$ 11,949</u>	<u>\$ 82,970</u>	<u>\$ 8,678</u>	<u>\$ 103,597</u>	<u>\$ 7,140,709</u>

Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

Management Challenges Facing the FMC



FEDERAL MARITIME COMMISSION
800 North Capitol Street, N.W.
Washington, DC 20573

Office of the Inspector General

October 4, 2005

MEMORANDUM

TO : Chairman Blust

FROM : Bridgette S. Hicks
Inspector General (Acting)

SUBJECT: Inspector General's Assessment of Management Challenges Facing the FMC
(A05-05)

On January 24, 2000, Congress enacted the *Reports Consolidation Act of 2000* to provide financial and performance management reporting to improve the efficiency of executive branch performance. These reports are combined in the Performance and Accountability Reports (PAR) which consists of the Annual Performance Report required by the Government Performance and Results Act (GPRA) with annual financial statements and other reports, such as agencies' assurance on internal controls, accountability reports by agency heads and Inspector Generals' assessment of the agencies most serious management and performance challenges.

The PAR should include a statement prepared by the agency's Inspector General (IG) that summarizes what the IG considers to be the most serious management and performance challenges facing the agency and briefly assesses the agency's progress in addressing those challenges.

In 2004, the Federal Maritime Commission (FMC) submitted its first PAR, in which the IG stated that its management challenges were the following:

Information Technology,
Financial Management, and
Contract Management.

These challenges parallel the President's Management Agenda (PMA) and remain the same for this reporting period.

Appendix A

Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

The most serious management challenges that follow are not ranked in any order of importance.

Challenge 1 – Information Technology

The FMC's information technology systems and the data they contain are used by staff and entities engaged in the ocean borne industry. The Bureau of Trade Analysis (BTA) reviews agreements and monitors the concerted activities of common carriers by water under the standards of the Shipping Act of 1984. Entities engaged in the industry include: Vessel Operating Common Carriers (VOCCs), Non Vessel Operating Common Carriers (NVOCCs), Ocean Transportation Intermediaries (OTIs) and Marine Terminal Operators (MTO) and Conferences. By Federal law these entities must register with the FMC prior to the commencement of common carrier services pursuant to a published tariff. The Form-1 form and system is designed to collect information for registration with the FMC.

The BTA and entities regulated by FMC also uses SERVCON to provide for the electronic filing, storage, and retrieval of service contracts. This system is only available to authorized persons filing service contract(s) data. This is an interconnected system in which the information is shared with other government agencies. Loss of or serious damage to any of these critical systems could have devastating impacts, which makes identifying weaknesses and recommending solutions a continuing priority for this office.

The Federal Information Security Management Act (FISMA), signed into law on December 17, 2002, provides a comprehensive framework for ensuring that information resources supporting federal operations and assets employ effective security controls. FISMA requires Offices of Inspector General to perform independent security evaluations of their agencies annually.

Our security reviews found that FMC senior management continues to give information security a top priority and have corrected many deficiencies previously reported. With the support of the Chief Information Officer (CIO) the Agency has worked hard to improve information security. During this period the FMC has corrected 55 of the 62 previously reported deficiencies and aggressively continues to correct the remaining 7 recommendations. The FMC is also working to correct 2 of the 4 material weaknesses identified in a previous fiscal year. The two material weaknesses are that SERVCON is not configured and operating under Federal guidelines and the other weakness is the quality of certification and accreditation documents and security self assessments of systems. We commend FMC on its efforts to get a handle on the SERVCON contract and its system to ensure better information security.

In FY 2005, we had an outside contractor assess FMC's information security. The contractor found that the FMC's firewall, the Exchange server, the SERVCON application server and the Web server from the Internet are well maintained and highly secured. The contractor also made 8 recommendations for the Agency's information security systems that needed to be addressed. The Office of Information Technology has responded to each recommendation and has concluded that FMC has one recommendation that needs to be addressed and will be incorporated into FMC's POA&M.

Audits/Inspections

- FY 2005 Federal Information Security Management Act (FISMA) Compliance

Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

Challenge 2 – Financial Management

The Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993, the Government Management Reform Act of 1994 and the Federal Financial Management Improvement Act of 1996 require that agencies prepare information needed by Congress, agency executives, and the public to assess the management of federal programs and operations.

In FY 2003, for the first time the FMC had an independent contractor reviewing its financial position and the balance sheet. In FY 2004, the FMC had a full financial statement audit performed by a contractor. The FMC received an unqualified opinion with a recommendation to follow-up with its service providers to address information security-related weakness identified in the third party reports. FMC management follow-up with its service providers and the providers reported that there wasn't anything in the reports that impacted the FMC's financial management. The continue management controls being established at the FMC are moving in the right direction for effective and efficient process and controls.

Currently the FMC's FY 2005 financial statements are being reviewed. Thus far there hasn't been any material weakness that affects the FMC's financial standing.

Audits/Inspections

- FY 2005 Financial Statements (ongoing)
- Audit of Procurement of Vendor Training Services
- Audit of Controls Over Agency Property
- Audit of Agreement Filings
- FY 2004 Financial Statements

Challenge 3 – Contract Management

With the government procuring goods and services through contractors FMC must ensure these services are in accordance with Federal regulations and that FMC's staff have the skills to perform these duties. Without effective management controls, the procurement process is susceptible to fraud, waste, and abuse.

In FY 2005, we reviewed the FMC's SERVCON contract including the maintenance contract. The CIO recognized the issues relating to the SERVCON contract and has taken a positive approach to remedy the problems which includes management/procedures, information security, management oversight, and Contracting Officers Technical Representative oversight and cost controls. With continue support from management and management controls the contract process will not be susceptible to fraud, waste and abuse.

Audits/Inspections

- SERVCON Review

Overall, the Commission is working diligently to address these various challenges.

Actions to Address the FMC's Management Challenges

Actions to Address the FMC's Management Challenges

This appendix discusses the management challenges that the FMC's Inspector General identified for FY 2005 in a memorandum to Chairman Blust, dated October 4, 2005.

Challenge 1 - Information Technology

As discussed earlier in the section entitled *Federal Managers' Financial Integrity Act*, the Commission mitigated one material weakness during the fiscal year related to information technology, and has two open material weaknesses for which final corrective action is planned for the near future. Please see that section for a more in-depth discussion of issues related to this Challenge. These are the only material weaknesses remaining for the agency to address in any area.

As the Inspector General's memorandum notes, "FMC senior management continues to give information security a top priority and have corrected many deficiencies...." The FMC is pleased that the FMC's firewall, Exchange server, SERVCON application server and Web server, which were tested during the fiscal year by an outside contractor, were found to be well maintained and secured. The FMC is committed to mitigating its remaining material weaknesses early in FY 2006, and to a proactive approach to examining and addressing information technology issues in the future, especially with regard to security.

Challenge 2 – Financial Management

The Inspector General's memorandum disclosed that there are no material weaknesses that affect the FMC's financial standing. The FMC has worked diligently to ensure that this is the case, and will do so in the future.

Challenge 3 – Contract Management

The Inspector General memorandum focuses on the audit of one particular contract: the SERVCON contract. Virtually all corrective actions have been taken to address the issues raised by the Inspector General in that audit, with all oversight, control and contract management issues being resolved. The FMC has terminated the contract to operate the system off-site, transferred management of SERVCON to FMC in-house staff, and a re-write of the system's security and password features has been completed. Disaster recovery testing is expected to be accomplished early in FY 2006, at which time corrective action under this audit will be completed.

Appendix C

Management Decisions and Final Actions on OIG Audit Recommendations

Management Decisions and Final Actions on OIG Audit Recommendations

The FMC has established and strives to maintain a good record in resolving and implementing audit recommendations presented in OIG reports. Section 5(b) of the Inspector General Act of 1978, as amended, requires agencies to report on final actions taken on OIG audit recommendations.

The following tables give the dollar value of questioned or unsupported costs and of reports of recommendations that funds be put to better use as determined through audits conducted by the OIG.

Management Report on Audit Reports Which Included Questioned or Unsupported Costs		
Opening Balance of Audits	Number of Reports	Dollar Value (in Thousands)
For Which No Management Decision Had Been Made By the Commencement of the Reporting Period.	0	\$0.00
For Which a Management Decision was Made During the Reporting Period.	0	\$0.00
For Which Final Actions Were Taken During the Reporting Period.	0	\$0.00
For Which Final Actions Were Not Taken By the End of the Reporting Period.	0	\$0.00
Totals:	0	\$0.00

Management Report on Audit Reports Which Included Funds Put to Better Use		
Opening Balance of Audits	Number of Reports	Dollar Value (in Thousands)
For Which No Management Decision Had Been Made By the Commencement of the Reporting Period.	0	\$0.00
For Which a Management Decision was Made During the Reporting Period.	0	\$0.00
For Which Final Actions Were Taken During the Reporting Period.	0	\$0.00
For Which Final Actions Were Not Taken By the End of the Reporting Period.	0	\$0.00
Totals:	0	\$0.00

Management Decisions and Final Actions on OIG Audit Recommendations

Management Decisions Not Implemented Within One Year

Management decisions were made before September 2004 for the OIG audit reports discussed in the following paragraphs. As of September 30, 2005, the Commission did not take final action on some issues. However, management has made great strides in resolving each of these matters, and expects to complete corrective action early in FY 2006.

Review of the FMC Implementation of the FISMA Act of 2002 (Audit No. A03-06) - September 16, 2003

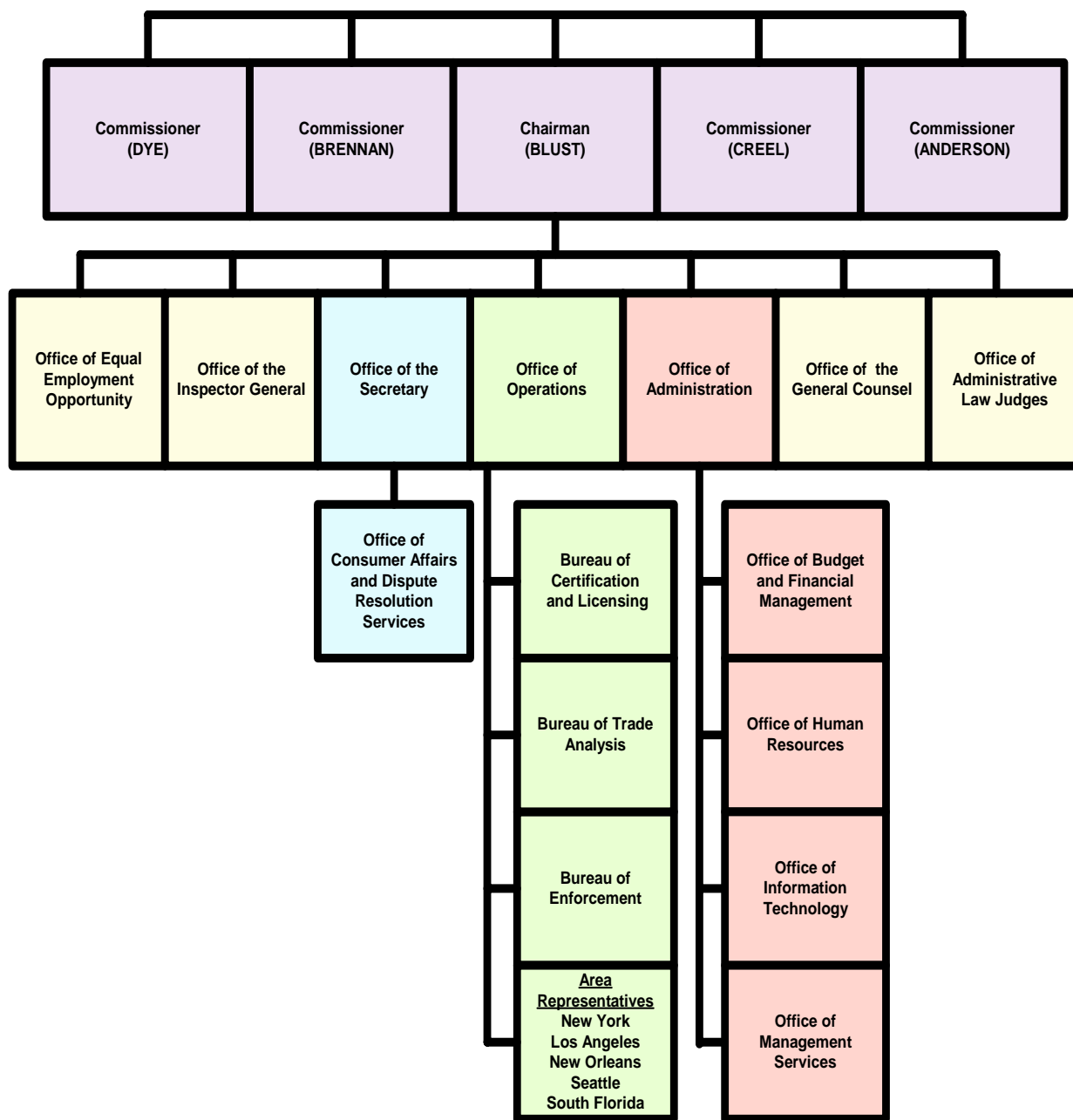
A contractor-conducted audit of the Commission's automated information security program resulted in numerous recommendations for improvements in network and physical security infrastructures, documentation and procedures. Additionally, material weaknesses were identified in the information technology program related to security. The Commission has resolved virtually all of the issues raised in the audit, including several of the material weaknesses. What remains are matters related to the testing of disaster recovery plans as related to the agency's IT systems and the re-write of one application which resides on the agency's network. During FY 2005, the Commission made final arrangements for the use of a remote, alternate site for recovery of its IT systems, and plans were in process for developing a re-write of the application. The application re-write is expected to be completed early in FY 2006. Subsequent to the re-write, testing will be conducted early in FY 2006 to ensure agency plans for disaster recovery are viable. Once that testing is completed, the two material weaknesses will be mitigated.

Audit of Simplified Acquisitions (Audit No. 04-01) - March 2, 2004

The Inspector General's audit disclosed that the Commission has effectively implemented the Federal Acquisition Streamlining Act of 1994. However, several recommendations were made to further refine Commission business processes. There are two outstanding corrective actions yet to be accomplished regarding the development of standard operating procedures for the funds obligation process and independent confirmation of goods and services. The agency offices involved in procurement and financial management are engaged in a process to update all standard operating procedures, and the outstanding corrective actions are expected to be completed early in FY 2006.

Appendix D

FMC Organization Chart as of September 30, 2005



Appendix E

Annual Performance Plan (Revised) 2005

Introduction

This document comprises the FMC's Revised Final Annual Performance Plan for FY 2005. The Commission has made specific changes to its Final Plan based on a recent agency realignment, and an overall assessment of its planning process. This Revised Plan remains closely linked to the agency's Strategic Plan, and it sets forth objective performance goals and narrow, measurable performance indicators so as to facilitate implementation and performance assessment.

In August 2004, the FMC reallocated its resources so as to maximize staff effectiveness and enhance agency efforts to better serve the ocean transportation industry. Our aim is to provide an effective regulatory structure, serve our stakeholders more efficiently and responsively, and improve our internal business processes and operations. We have included specific performance goals in line with this restructuring, as more fully explained below.

This Revised Final Plan reflects a modified approach to our annual planning. We have determined that both effectiveness and efficiency can be improved if we operate pursuant to broader performance goals tied to the achievement of agency-wide objectives, as opposed to more narrowly focused goals tailored to the responsibilities of individual units. Accordingly, agency performance goals now are linked directly to our Strategic Goals instead of our Budget Program Activities. This will enable the Commission to pursue its strategic objectives in a more cohesive manner, with various agency components working toward common ends. It also will facilitate our aim of utilizing a more inclusive, collaborative approach in conducting ongoing activities, which we believe both enhances decision-making and improves ultimate results. Further, we anticipate that addressing our performance goals in this fashion will foster our efforts to link planning, budgeting and performance more effectively.

Additionally, with this Revised Final Plan, we now will allocate all agency resources for the fiscal year. OMB guidance requires agencies to reflect in their annual performance plans the resources needed to accomplish stated performance goals. Previously, the Commission's Plans have identified the FTEs and funding required to accomplish its stated performance goals, acknowledging that the remainder of its resources were dedicated to its various other day-to-day responsibilities. We now will set forth all of our myriad steady state functions, which enables our Plan to account for all Commission resources. We have presented performance goals and steady state functions for each Strategic Goal; the figures for these five Strategic Goals, when summed, reflect the full FTE and funding levels of the President's FY 2005 budget submission for the Commission.

For FY 2005, the Commission has placed a major emphasis on furthering its interactions with external parties to increase the value of its services and oversight operations. As an example, we plan to establish appropriate contacts with consumer protection agencies at the state and local levels to inform them how we can assist in redressing transportation-related complaints. We also intend to strengthen relationships with government agencies responsible for maritime security to facilitate our mutual efforts to identify and address potential security threats. And we propose to improve our communication with the media, industry representatives, and other stakeholders to increase public awareness of Commission programs and policies, and to help address concerns before they become problems.

Our FY 2005 Plan also broadens our efforts to implement the President's Management Agenda initiative to expand electronic government. Several performance goals were formulated to improve the management of information by utilizing technology to streamline and simplify the delivery of services and information to regulated entities, other government agencies and the public, and to create more sophisticated databases which will allow staff to more effectively identify and target regulated activities, complaints, and potential abuses.

The Commission's Annual Performance Plan comports with the overall objectives of GPRA while maintaining flexibility in its presentation and application. The majority of Commission activities are statute-driven, and our goals essentially are based upon legislative mandates which are clear and direct. Significant alteration of our existing programs is not possible, given that many measures and goals are required by statute.

Annual Performance Plan (Revised) 2005

INTRODUCTION (continued)

Accordingly, OMB agreed that the Commission should use an appropriately scaled mechanism for GPRA process and development with a framework which would be productive, yet less resource-intensive. Nonetheless, our Plan presents relevant information clearly and concisely, and strives to be as detailed as necessary while avoiding minutiae.

Our Plan sets forth the mission statement and general goals from our Strategic Plan, as a point of reference for the reader. As aforementioned, we have set forth agency performance goals and steady state functions under each of our Strategic Goals. Each performance goal has been stated as a narrow, measurable objective. For each performance goal, we have identified the related “means to achieve” from the Strategic Plan, the intended outcomes, appropriate performance indicators, the processes and resources required to accomplish it, and the means for measuring/evaluating performance. To ensure a clear understanding of the Plan’s contents, set forth below are definitions of basic terms used. We relied on OMB’s published guidance for these definitions, and have included parenthetically our interpretation of their practical application.

Related Strategic Goals/Outcomes/Means - A specific action identified in the agency’s Strategic Plan as one means of achieving a particular Strategic Goal (actions to accomplish Strategic Goals).

Performance Goal - A target level of performance; a measurable objective (a specific, proposed performance action).

Outcome - Intended result or consequence of carrying out the activity (the projected effect or what is hoped to be achieved).

Performance Indicator - A value or characteristic for measuring results (the quantifier or qualifier of performance).

Processes/Activities - The processes, skills, or resources that are required to effectively accomplish a performance goal (what is needed to achieve the goal).

Performance Measure/Evaluation - The means used to verify and validate measured values (methods used for assessing if programs achieved objectives, or, the specific means to measure if outcomes were realized).

The Commission used its existing consultation process in developing this Plan. We have kept key Congressional Committees apprised of our efforts, and have responded to any inquiries. We continued our ad hoc meetings and visits with all sectors of the industry to discuss the state of U.S. ocean shipping and the FMC’s oversight responsibilities. Rulemakings and formal inquiries also were effective in soliciting industry views on particular issues. And, the Commission continued its regular seminars conducted by agency staff at various locations around the country, which provide a valuable forum for the exchange of information with the industry and the shipping public. We expanded on this concept late in FY 2004 by holding the first of what will be periodic briefings by industry experts designed to provide Commission staff with valuable information on industry services, operations, business practices, and regulatory concerns. The opinions and comments we received via these various efforts have assisted us in developing our performance goals and implementing approaches.

The Commission will post this Performance Plan on its Internet website to ensure that it is readily accessible to interested parties, and will advise all employees to take the time to review it. Additionally, all employee performance plans are required to comport with the agency’s Strategic and Annual Performance Plans, and contain specific elements and standards with a clear explanation of what is expected of the employee in support of the agency achieving its goals. This process in turn has the effect of directly furthering the Administration’s initiative on strategic human capital management. Performance of managers and staff is evaluated in part on how they achieve the objectives in this Plan.

Annual Performance Plan (Revised) 2005

FMC Mission

To achieve its vision, the FMC's mission is:

Advance the Nation's interests by fostering an efficient, competitive, secure, market-driven, and nondiscriminatory ocean transportation system that is free of unfair foreign maritime trade practices and market-distorting activities.

OSRA and the events of September 11, 2001, have significantly changed the manner in which the business of ocean shipping is being conducted. The industry continues to restructure its operations to adapt to dynamic economic conditions, emerging trends, and maritime security efforts. International trade remains dependent upon an efficient ocean transportation system. Therefore, it is imperative for the FMC to ensure that its oversight activities produce a competitive trading environment in U.S. ocean commerce that is in harmony with and responsive to international shipping practices, and permits fair and open commerce. We must focus our energies and efforts on this mission, and assure that the agency is organized and managed in a manner best suited to accomplish it with a minimum of government intervention and regulatory cost. Effective use of emerging information technologies will facilitate our efforts. Our actions also must encourage the development of a sound U.S.-flag liner fleet. Accordingly, the FMC has established the following five strategic goals to carry out its statutory mandates.

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.
2. *Compliance:* Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.
3. *Balanced Enforcement:* Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress excessive anticompetitive actions and other unlawful activities.
4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.
5. *Management Capabilities:* Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

Appendix E

Annual Performance Plan (Revised) 2005

Linkage Between Mission Statement and Strategic Goals

Our strategic goals address essential FMC statutory, programmatic, and management responsibilities. They were developed with a specific focus on accomplishing the basic purposes of our mission and attaining the competitive, nondiscriminatory shipping environment envisioned by the 1984 Act, as amended by OSRA.

The primary intention of Strategic Goal 1 is to minimize regulatory costs by maintaining timely and decisive regulatory processes, and providing various dispute resolution services. This will render the FMC more effective in addressing matters that perpetuate discrimination or preclude industry efficiency, while reducing the costs of pursuing matters before the Commission. Decisive action and effective assistance in resolving informal complaints or disputes will help to remove uncertainties as to statutory interpretations or the application of FMC rules. Such uncertainties may impede operational efficiencies or technological changes, each of which can foster a more economical ocean shipping system.

Our second strategic goal centers on achieving compliance with the substantive provisions of the shipping statutes the FMC administers, and protecting those involved in U.S. ocean commerce from unfair practices. We will address this goal particularly by interacting with all sectors of the industry, and by vigilant monitoring of ongoing commercial activities. Accomplishing this goal should minimize the unjust discrimination and undue preference or prejudice that precludes certain shipping interests from obtaining rates or service levels that can render their businesses more economic and efficient. Increasing industry compliance should enable stakeholders to concentrate on fair and legal means of enhancing operational efficiency, secure in the knowledge that competitors are not engaging in widespread illegal actions aimed at improving short-term profits. The agency's focus on the qualifications of intermediaries operating in the U.S. trades will afford greater protection to our stakeholders and contribute to national maritime security. And cruise passengers also will be protected through the demonstration of financial responsibility by passenger vessel operators.

Strategic Goal 3 is designed to foster economic efficiencies, assist maritime security initiatives, promote reliance on marketplace factors, and redress excessive anticompetitive practices harmful to international commerce. This is a direct link to our mission statement's call for an efficient, secure, competitive, market-driven ocean transportation system. Our continuing efforts to address the actions of foreign governments that adversely affect U.S. interests and our foreign trade comport with that aspect of our mission aimed at creating an environment "free of unfair foreign maritime trade practices." Our focus on commercial malpractices enhances our objective of limiting unlawful activities.

We also have a specific strategic goal that focuses on making effective use of advancements in IT to improve the efficiency of our operations and enhance our exchange of information with external parties. Carrying out the agency's mission in times of budgetary limitations dictates that we appropriately utilize all available resources. Dynamic changes continue to be made in this area, and the Commission intends to take advantage of any improvement that can enable it to perform its functions more effectively. We hope to improve our business operations so as to add efficiency to the Commission's dissemination and receipt of information. We intend to perform the research and analysis necessary to identify the best options for implementing technical enhancements to facilitate our efforts to achieve our mission.

Finally, our fifth strategic goal addresses Commission management and operations. In order to achieve the objectives of our mission, we must maintain effective processes that enhance efficiency, without serving as ends in themselves. It is essential that we manage for results, and that we effectively tie our budget needs to our performance. This strategic goal serves as the internal underpinning that enables us to accomplish the policy objectives set forth in our mission statement. This goal also ensures continuation of a comprehensive approach to the strategic management of our human capital.

Appendix E

Annual Performance Plan (Revised) 2005

Linkage Between Mission Statement and Strategic Goals (continued)

Achieving these mission-driven goals will enable us to address the external factors we face, while assuring an equitable and efficient administration of the shipping statutes under our jurisdiction. Our processes and procedures will be refined or updated as necessary. We are committed to accomplishing our strategic goals and the outcome goals related to them. Therefore, specific means have been identified to enable the FMC to achieve these goals in the most cost-efficient and least disruptive manner possible.

STRATEGIC GOAL: Efficient Regulatory Process

37 FTEs and \$5,743,000 will be required to accomplish this goal.

2005 Steady State Activities:

- Adjudication and resolution of complaints.
- Adjudication and resolution of investigatory proceedings, including fact-findings and show cause proceedings.
- Issuance of rules through the rulemaking process.
- Commission decision-making activities through meetings (formal and notation) that comply with the Government in the Sunshine Act.
- Public information and assistance processes such as press relations, responses to legislative and regulatory inquiries, and compliance with Freedom of Information Act and Privacy Act requirements.
- Other regulatory processes, including activities such as appeals of delegated authority actions, policy issuances, and formal petition processes.
- Providing timely legal counsel to the Commission in order to facilitate regulatory action that is consistent with statutory mandates, representing the Commission's interest in matters before Congress and OMB.
- Reviewing and refining Commission rules to determine their economic impact and ensure that they reflect the current industry environment, as well as meet the needs of the Commission's regulatory mandate.
- Compiling, organizing, and maintaining Commission records.
- Monitor, review and modify, as necessary, Commission regulations to address changing trade conditions, industry practices or statutory modifications.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Efficient Regulatory Process (continued)

Performance Goal	Related Strategic Goals/ Outcomes /Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1.Promote the use of ADR to potential users & provide conflict resolution training to Commission managers.	Refine ADR Process.	Increased awareness & utilization of ADR by the industry, & Commission managerial officials better prepared to deal with human resource conflicts.	Increased use of ADR to resolve industry disputes, & improved Commission productivity.	Presentations & training sessions provided by the ADR function, whether by Commission officials or outside presenters/trainers.	-Number & variety of presentations & training sessions provided. -Feedback from participants.
2.Develop options for updating & modernizing the Commission's Rules of Practice & Procedure, including exploring the ability to utilize technology for electronic filing.	Review Procedural Rules.	-Definitive analysis of effect of prospective changes on the regulatory process, & whether Commission action is warranted. Such actions could include NOI or NPRM to solicit public comment. -Plan of action to eliminate barriers to greater utilization of electronic business processes.	Report to Commission with analysis of options & recommendations on what changes are warranted.	-Meetings are scheduled to present ideas, gather information & study options. -Report to be filed with Commission with findings. -Task force co-chaired by GC & Secretary, with legal input from ALJ & technical input from CIO, & participation by program bureaus.	-If public comment is solicited, assess comments received from industry & public. -Final Commission determination of staff recommendation. -Assess impact of any proposals finalized.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Efficient Regulatory Process (continued)

<p>3. Develop automated FMC-18 to permit electronic filing & explore feasibility of electronic payment & e-signature capability.</p>	<p>Encourage use of electronic filing.</p>	<ul style="list-style-type: none"> -Permit public the option to file Form FMC-18 electronically rather than typing & mailing form into the FMC. -Reduce FMC administrative processing time of application. -Easy accessibility to all information on Form FMC-18 for staff. -Applicants can track progress of their applications online. -Applicants have various options of payment. -Applicants can sign application electronically. 	<ul style="list-style-type: none"> -Volume of applications filed electronically. -Feedback from filers & FMC staff. -Allocation of FMC resources. 	<ul style="list-style-type: none"> -Design input screens & directions to facilitate application process. Include various user-friendly features such as track progress of application, facilitate filing amendments to current application or provision of supplemental information & documentation, & 24 X 7 access to filing system. -Develop standard procedures & systems to streamline & reduce processing time of applications. -Perform internal audit to ensure data quality (accuracy, completeness, etc.) & security of system. 	<ul style="list-style-type: none"> -Number of applications filed electronically. -Reduction of administrative processing time of applications. -Feedback from industry.
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Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Compliance

36 FTEs and \$5,403,000 will be required to accomplish this goal.

2005 Steady State Activities:

- Reviewing and maintaining a database of SCs between ocean common carriers and shippers, and using this database to guard against anticompetitive practices and other unfair prohibited activities under the 1984 Act.
- Ensuring that common carriers' rates and charges are accessible to the shipping public in private, electronically accessible systems.
- Ensuring that OTIs maintain bonds that protect the shipping public from financial losses.
- Providing formal and informal legal opinions and guidance to the Commission's staff and the general public to ensure clarity and understanding of Commission rules and regulations.
- Administering the Commission's international affairs program.
- Liaisoning with other agencies regarding maritime security.
- Reviewing operational and pricing agreements among ocean common carriers and marine terminals to ensure that they do not unduly restrict competition.
- Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death or to repay fares for the nonperformance of voyage or cruise.
- Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.
- Responding to informal complaints and informal inquiries from Congress and the public relating to Commission responsibilities.
- Acting as a liaison between the FMC and the public by responding and/or coordinating agency responses to public inquiries.
- Maintaining a specialized maritime law library for agency and public use.
- Conduct audit activity of regulated entities, including OTIs and VOCCs, to promote and ensure compliance with applicable statutes and Commission regulations.
- Respond to inquiries and complaints from the regulated industry and shipping public. Provide information, assistance and forms necessary to comply with applicable statutes and Commission regulations, including educational seminars.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Compliance (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Develop public relations strategies & programs.	Foster dialogue w/ industry.	<ul style="list-style-type: none"> -Improve/ establish relationships/ image w/media, industry & government instrumentalities. -Establish lines of communication w/constituents & others to address concerns before they become problems. -Increased public awareness of Commission policies & programs. 	<ul style="list-style-type: none"> -Increased media contacts and/or more stories/ articles re FMC activities in media outlets, particularly non-industry media. -Increased FMC representation at public meetings, particularly of the nontraditional variety, i.e., shippers, travel agents, etc. -More frequent contact/ interaction w/ individuals from the public, media & industry. 	<ul style="list-style-type: none"> -Meetings w/ media, industry & government representatives. -Attendance at conferences & meetings, both social & business. -Develop a plan for producing brochures & other educational publications. -ADR -Explore webcasting for Commission meetings. 	<ul style="list-style-type: none"> -Wider distribution of FMC publications. -More contacts w/media, industry & other government representatives.
2. Enhance industry outreach.	Increase outreach to industry.	<ul style="list-style-type: none"> -Increased level of communication between agency & industry stakeholders. -Positive & effective relationships between agency representatives & industry representatives. -Greater industry awareness of benefits of FMC oversight. 	<ul style="list-style-type: none"> -Number of outreach activities and FMC-sponsored seminars, and types of conferences attended. -Greater FMC voice in industry press. 	<ul style="list-style-type: none"> -Improved staff-wide conference attendance. -Continue FMC-sponsored seminars. -Increased proactive press contact regarding FMC activities & oversight initiatives. 	<ul style="list-style-type: none"> -Number of seminars held & feedback on quality of participation. -Improved Commission representation at select seminars/ conferences relevant to agency oversight responsibilities. -Quantity & quality of positive press coverage.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Compliance (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>3. Provide opportunity for VOCCs to establish a “best practices” program to limit participation of unlawful entities in ocean transportation.</p>	<p>Increase outreach to industry.</p>	<ul style="list-style-type: none"> -Promote equitable competition among entities acting as OTI service providers. -Promote voluntary compliance by vessel operators w/regard to statutory requirements to provide transportation services & service contracts to lawful OTI entities. -Improve maritime security by curtailing unlawful participation in the ocean transportation system. 	<ul style="list-style-type: none"> -VOCCs advised of opportunity to adopt “best practices” program. -Reduction in number of unlawful OTIs receiving ocean transportation services. 	<ul style="list-style-type: none"> -Use educational programs & public notice to advise VOCCs of “best practices” opportunity. -Give appropriate “mitigation” recognition to entities with “best practices” programs in enforcement actions. 	<ul style="list-style-type: none"> -Review of outreach & educational efforts & materials developed to advise industry of “best practices” opportunity. -Number of entities adopting “best practices” programs for voluntary compliance efforts. -Usage of “best practices” in mitigation of enforcement actions.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Balanced Enforcement

16 FTEs and \$2,313,000 will be required to accomplish this goal.

2005 Steady State Activities:

- Investigating discriminatory rates, charges, classifications, and practices of common carriers, terminal operators, and OTIs operating in the foreign commerce of the U.S.
- Representing the FMC before U.S. courts and other administrative agencies.
- Reviewing staff recommendations and initial decisions for legal sufficiency and preparing final decisions and orders.
- Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.
- Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations or business practices that harm U.S. shipping interests or ocean trade.
- Prosecute formal proceedings initiated by the Commission.
- Monitor activities and conduct investigations of regulated entities and of SC activity to ensure compliance with statutes and regulations administered by the Commission.
- Conduct non-adjudicatory fact-finding proceedings as directed by the Commission.
- Provide liaison between the Commission and the shipping industry, the public and other governmental entities.
- Coordinate and cooperate with other government entities to improve homeland security by effective exchange of information and assistance regarding foreign ocean transportation.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Balanced Enforcement (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>1.Contact & educate consumer protection agencies on the state & local government level regarding Commission programs & remedies to protect & assist the public from the unlawful activities of transportation providers & intermediaries.</p>	<p>Increase dealings with industry & government .</p>	<p>-Commission can provide assistance to consumer protection agencies in redressing transportation complaints. -Agencies can direct the Commission to entities unlawfully providing transportation services.</p>	<p>Number of agencies contacted & identification of information provided & educational programs conducted.</p>	<p>-Secretary & Dir., Operations, coordinate & conduct outreach, & educational efforts reach agencies & entities most likely to address ocean transportation concerns. -Disseminate materials discussing FMC & its functions for distribution by other agencies & entities. -Appear at seminars & meetings to discuss FMC & its functions.</p>	<p>-Number of agencies contacted & educational programs conducted. -Feedback from consumer agencies & the public with regard to Commission efforts.</p>

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Balanced Enforcement (continued)

<p>2. By 6/30/05, redesign internal agreement database to enable more efficient oversight of agreement activities.</p>	<p>Monitor competitive trade conditions.</p>	<ul style="list-style-type: none"> -Identification of agreements that have the potential for unreasonable market distortions. -Shifting of resources from those agreements that have little or no competitive impact to focus on those which possibly could distort the market. -More in-depth analyses of potentially problematic agreements resulting in a greater incidence of Commission agreement initiatives to address possible abuses. -Fewer instances of market-distorting activities adversely affecting the shipping public. -Quicker agency response to potential problems. 	<ul style="list-style-type: none"> -Ability to identify readily agreements for specific monitoring. -Number of shipper complaints. -Number of Commission agreement initiatives. -Number of requests for specific database reports from agency components. -Number of agency inquiries to agreement parties regarding their activities. 	<ul style="list-style-type: none"> -Review current agreement elements to determine which are outdated & what new ones should be added. -Confer w/other agency components for their input on what current elements are still useful & what additional elements would better support their program goals & objectives. -Review effective agreements to ensure accurate coding of agreement authorities into the database. -Design database reports to meet the needs of various agency components. 	<ul style="list-style-type: none"> -Fewer shipper complaints regarding agreement activities. -Feedback from users of the database reports on the effectiveness & efficacy of such information in support of their program goals & objectives. -Instances of agency interventions to address potential abuses.
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Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Balanced Enforcement (continued)

<p>3. Review results of major enforcement actions (e.g., those targeted at anti-competitive practices of ports & ocean common carriers) during the past 3 years to assess effectiveness of remedies.</p>	<p>Monitor competitive trade conditions.</p>	<p>-Assure practices of carriers or ports are not unlawfully anti-competitive. -Assure Commission vigilance in monitoring use of antitrust immunity.</p>	<p>-Remedies of past enforcement & compliance efforts have been properly implemented. -How effectively compliance directives have been implemented.</p>	<p>-In coordination with BTA & BCL, review reports, minutes & activities of entities previously subject to enforcement actions. -Director, BOE ensures appropriate parameters for review & assessment are in place.</p>	<p>Remedial actions taken and currently effective in addressing anticompetitive activities.</p>
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Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Balanced Enforcement (continued)

<p>4. Develop additional relationships w/ other agencies w/ responsibilities related to maritime security, including DHS, DOT & intelligence agencies.</p>	<p>Cooperate w/ government agencies for marine security.</p>	<p>-Increased interagency communications & information-sharing regarding national security as it applies to the maritime industry. -Positive relations among relevant agencies & enhanced understanding of the FMC's role in maritime security issues. -Continued FMC contribution to interagency efforts to identify potential security threats. -Coordinated efficient approach to maritime security challenges.</p>	<p>-FMC continues to be represented at interagency meetings of the Container Working Group & other relevant interagency groups or task forces. -FMC views & participation are reflected in appropriate reports & communications memorializing meetings or consultations concerning maritime security. -Cohesive relationships continue to be formed. -Concerted information-sharing & coordination of agency activities have been accomplished.</p>	<p>-Chairman provides policy direction to OGC. -OGC continues to serve as liaison & coordinates with Commission bureaus. -Regular meetings w/ relevant agencies are attended or initiated by FMC liaison. - Communications are submitted to agencies to memorialize meetings & conversations or to report recent developments in maritime security issues.</p>	<p>-Feedback on Commission representatives' participation in activities & meetings. -Number of meetings, contacts & interagency activities.</p>
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Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Technological Efficiencies:

18 FTEs and \$2,374,000 will be required to accomplish this goal.

2005 Steady State Activities:

- Implementing a wide range of IT programs and services, including operating the agency's local area network, strategic planning for short- and long-term IT initiatives, IT security, data telecommunications, database development and management, and Internet page development and maintenance to enhance productivity and efficiency.
- Maintaining and updating internal databases to enhance the ability of the public and Commission to obtain relevant program-related information and enhance staff productivity.
- Converting Commission records into electronic format to enable easier public access to information.

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>1.Enhance the reliability & efficiency of SERVCON by ensuring that filers use proper electronic document file names to identify each SC submission. *In addition, other changes to flag contract documents transmitted into the SERVCON system with problems, e.g., retroactive effective date. This performance goal is being modified to accelerate the streamlining & usefulness of the system for anticipated short- & long-term growth.</p>	<p>Use technology to improve agency work processes.</p>	<p>-All new SCs filed in SERVCON have proper document file names. -Eliminate targeted SCs that are unnamed in SERVCON & unretrievable by the FMC's search engine.</p>	<p>-All targeted SCs are retrievable through the FMC's electronic search engine. -No omission of critical information that is obtainable only in confidential contracts is detected.</p>	<p>-Audit existing contracts incorrectly named. -Develop approach to ensure proper SC file name. -Determine process for eliminating improperly named SCs. -Identify targeted SCs to be corrected.</p>	<p>-Reports/studies based on information contained in SC filings are reliable due to appropriate naming of unique electronic document files. -Problems associated w/ improper file names, based on random searches, are eliminated.</p>

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Technological Efficiencies: (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>2. Assure that 95% of the security on agency systems is in conformance w/ Administration & Congressional mandates.</p>	<p>Follow OMB regulations to meet GPEA/ FISMA requirements .</p>	<ul style="list-style-type: none"> -More secure IT systems in furtherance of agency mission. -Provide users with a more stable working environment to allow for more efficient business processes. -Enhance safety of data. -Compliance w/ OMB guidance under FISMA and GPEA. 	<ul style="list-style-type: none"> -No IT systems reported to have unauthorized access. -No, or minimal, viruses reported that have impact on network operation or performance. -Net IT systems will incorporate security plans. -All systems report latest security & virus detection tool installed. 	<ul style="list-style-type: none"> -IT office will work with program offices to ensure system development will follow SDLC & include required plans. -IT office applies FISMA guidelines to IT investments. -IT office will work w/program offices to provide feedback on security matters & implement controls. 	<ul style="list-style-type: none"> -POA&Ms for FISMA report to OMB. -Forms collections pursuant to e-filing processes. -Receive minimal corrective action findings on IG independent audit.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Technological Efficiencies: (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>3. Analyze the current FMC Internet website & develop a plan to create a more efficient & comprehensive design.</p>	<p>Automate agency systems.</p>	<p>-Information & participation from all bureaus/offices will ensure that website material is comprehensive & correct. -Information currently on the website will be revised & edited to be more user-friendly & reflect OMB's proposed website guidelines. -Any relevant information not currently on the website will be compiled & formatted for addition to the website. -Issues regarding the technological implementation of the design will be identified.</p>	<p>-Participation of all agency bureaus/offices in designing & agreement on design. -Presentation of recommendation to Chairman & SES. -Positive feedback from Chairman & SES.</p>	<p>-Create task force w/ representatives from bureaus/ offices. -Hold periodic group & individual meetings to discuss design templates & compilation of information. -Create a design plan, both visual (templates, colors, graphics, etc.) & organizational (what information, how the information is presented, etc.). -Compile new information. -Comprehensive editing of both new & old information. -Hold meetings w/OIT to discuss technological needs. -Prepare & give presentation to Chairman & SES.</p>	<p>-Final determination by Chairman to begin implementation of website redesign. -Compliance with all OMB guidelines & proposed guidelines.</p>

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Management Capabilities:

26 FTEs and \$3,662,000 will be required to accomplish this goal.

2005 Steady State Activities:

- Executing financial management policies and programs, including developing annual budget justifications for submission to the Congress and OMB, managing agency appropriations, administering internal control systems for agency funds, travel and cash management, and coordinating with contractors who provide accounting and payroll services.
- Fostering human resource management principles, including recruitment and placement, position classification and pay administration, occupational safety and health, employee assistance, employee relations, workforce discipline, performance management and incentive awards, employee benefits, career transition, retirement, employee development and training, personnel security, and equal employment opportunity.
- Ensuring the program operations of the agency are administratively supported via telecommunications, procurement of administrative goods and services, property management, office space, printing and copying, mail and records services, facilities and equipment maintenance, and transportation.
- Promoting economy and efficiency in the administration of the agency's programs, and detecting waste, fraud and abuse in same via auditing agency operations.
- Providing guidance to staff regarding administrative matters, including procurement, personnel and contracting issues.
- Ensuring program compliance with various rules and regulations regarding such areas as forms clearance,
- Paperwork Reduction, Small Business Paperwork Reduction Act, and other Federally required reports and submissions.

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Management Capabilities: (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>1. Implement an IT CPIC process for the Commission's major IT investments.</p>	<p>Train & provide IT to improve workforce productivity.</p>	<p>-Commission's IT expenditure decisions make the best use of scarce agency resources. -Complying with OMB guidance under ITMRA & GPRA.</p>	<p>-New IT systems support multi-program requirements. -New IT systems will share data across the Commission & externally, as required. -IG audits identify minimal corrective actions needed to improve IT program management.</p>	<p>-Commission will provide solid business cases for projects that request funds to support IT investments. -Formal IT CPIC issued in fourth quarter of FY 2005. -Bureau/office heads ensure staff follows policy guidelines when developing proposals for applications.</p>	<p>-Requests for IT project funding comport with OMB guidelines. -IG audits.</p>

Appendix E

Annual Performance Plan (Revised) 2005

STRATEGIC GOAL: Management Capabilities: (continued)

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>2. Complete implementation of strategic linkage of agency planning, budgeting & performance.</p>	<p>Integrate performance review with budget.</p>	<p>-Managers have more control/ flexibility over resources. -Managers have timely, thorough & accurate information to plan activities & monitor business processes. -Agency ensures that its major priorities & objectives drive the allocation of resources, & that staff is managed & appraised in line with accomplishment of clearly articulated performance goals. -Improved performance, better service to stake-holders, & more cost-effective use of resources.</p>	<p>-FY 06 & 07 budgets & annual performance plans are completed in line w/stated goals & outcomes. -FY 05 resources allocated via collaborative senior management process that appropriately funds relevant priorities/ functions/ objectives. -Staff more fully engaged in agency-wide planning/ business processes. -Awards/ incentives based on accomplishment of stated performance goals.</p>	<p>-Complete implementation of a process whereby all senior managers collaborate in the identification of relevant priorities/ functions, allocation of all resources, & the consistent assessment of staff performance. -FY 06 budget & annual performance plan are completed via refined collaborative process. -Broader use of participative management to include all levels of agency staff in planning efforts & identification of most viable regulatory approaches/ actions. -Budgets are developed based on agency-wide assessments, as opposed to singular bureau/ office views.</p>	<p>-Feedback from OMB & Congressional Committees. -Chairman's assessment of agency operations to ensure desired linkage occurred. -Managers' assessment of staff performance. -Managers' assessment of various business processes to determine impacts on efficiency/ effectiveness.</p>

Appendix F

GLOSSARY OF ACRONYMS

-#-

1920 Act Merchant Marine Act, 1920
1984 Act Shipping Act of 1984

-A-

ACE/ITDS Automated Commercial Environment/
International Trade Data System
ADR Alternative Dispute Resolution
ALC Agency Location Code
ALJ Administrative Law Judge

-B-

BCL Bureau of Certification and Licensing
BOE Bureau of Enforcement
BPD Bureau of the Public Debt
BTA Bureau of Trade Analysis

-C-

CATs Carriers' Automated Tariff System
CADRS Office of Consumer Affairs and Dispute Resolution
Services
C&A Certification and Accreditation Services
CBP U. S. Customs and Border Protection
CFR Code of Federal Regulations
CIO Chief Information Officer
COOP Continuity of Operations Plan
CPIC Capital Planning and Investment Control
CSRS Civil Service Retirement System

-D-

DHS Department of Homeland Security
DOT Department of Transportation

-F-

FACTS Federal Agencies' Centralized Trial-Balance System
FISMA Federal Information Security Management Act
FMC/Commission Federal Maritime Commission
FMCSA Federal Motor Carrier Safety Association
FMFIA Federal Managers' Financial Integrity Act
FOIA Freedom of Information Act
FPS Federal Protective Service
FSPA Foreign Shipping Practices Act of 1988
FTE Full Time Equivalent
FY Fiscal Year

Appendix F

GLOSSARY OF ACRONYMS

-G-

GPRA Government Performance and Results Act
GRI General Rate Increase

-I-

IG Inspector General
IPAC Intergovernmental Payments and Collections
IRS Internal Revenue Service
IT Information Technology

-M-

MD&A Management's Discussion and Analysis
MS Microsoft
MTO Marine Terminal Operator

-N-

NFC National Finance Center
NIST National Institute of Standards and Technology
NSA NVOCC Service Arrangements
NVOCC Non-Vessel Operating Common Carrier

-O-

OA Office of Administration
OBFM Office of Budget and Financial Management
OGC Office of General Counsel
OHR Office of Human Resources
OIG Office of the Inspector General
OIT Office of Information Technology
OMB Office of Management and Budget
OMS Office of Management Services
OPM Office of Personnel Management
OPS Office of Operations
OPVIP Office of Passenger Vessels and Information Processing
OS Office of the Secretary
OSRA Ocean Shipping Reform Act of 1988
OTI Ocean Transportation Intermediary

-P-

P.L. Public Law
PAR Performance and Accountability Report
PIERS Port Import Export Reporting Service
PMA President's Management Agenda
POA&M Plan of Action and Milestones
PRC People's Republic of China
PVO Passenger Vessel Operator

Appendix F

GLOSSARY OF ACRONYMS

-S-

SBPRA	Small Business Paperwork Relief Act of 2002
SBR	Statement of Budgetary Resources
SC	Service Contract
SERVCON	Service Contracts Filing System
SES	Senior Executive Service
Shipping Act	Shipping Act of 1984
STB	Surface Transportation Board
SQL	Structured Query Language

-R-

RPI	Regulated Persons Index
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-T-

TEU	Twenty-foot Equivalent Unit (container)
TIN	Taxpayers Identification Number
TSP	Thrift Savings Plan

-U-

U. S.	United States
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-V-

VOCC	Vessel-Operating Common Carrier
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