

Office of Inspector General

Semiannual Report to the Congress

Covering the Period
April 1, 2011 — September 30, 2011



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 31, 2011

Office of Inspector General

Dear Chairman Lidinsky and Commissioners:

The attached report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. It summarizes the activities of the Office of Inspector General (OIG) for the period April 1, 2011, to September 30, 2011. The Act requires that you transmit the report to the appropriate Congressional committees within 30 days of receipt. Your transmittal should also include any comments you consider appropriate and other statistical tables and reports required by law.

During this period we issued one program evaluation and began four audits / evaluations of agency programs or operations. We also updated the OIG's annual audit plan for FY 2012 and beyond and completed a peer review of the audit operations at another federal OIG.

Also during this reporting period, the OIG received nine complaints: We responded to four of the complaints and forwarded five complaints to the appropriate FMC program area for disposition. The OIG opened no new investigations and referred no matters to prosecutorial authorities during this period.

In addition to these audit and investigative activities and outcomes, the OIG began quarterly meetings with other Designated Federal Entity OIGs to discuss issues, outcomes and solutions endemic to smaller IG offices. We continue to respond to consumers victimized as part of an internet scam operation using FMC indicia, selected a new information security contract evaluation team and began substantive revisions to the office's Investigations Manual in anticipation of an investigations peer review.

AS of September 30, 2011, there were 21 recommendations between 13 and 66 months old. The oldest recommendation, to implement a paperless bill-paying process, is a "green" alternative to the current paper based process that would be more efficient for agency staff and its customers.

I appreciate management's support and I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.

Respectfully submitted,

/Adam R. Trzeciak/
Inspector General

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EXECUTIVE SUMMARY

This Semiannual Report to the Congress summarizes the activities and accomplishments of the Federal Maritime Commission (FMC or Commission), Office of Inspector General (OIG or Office), for the period April 1, 2011, through September 30, 2011. During this period we issued one program evaluation and began four audits / evaluations of agency programs or operations. We also updated the OIG's annual audit plan for FY 2012 and beyond and completed a peer review of the audit operations at another federal OIG.

Also during this reporting period, the OIG received nine complaints: We responded to four of the complaints and forwarded five complaints to the appropriate FMC program area for disposition. The OIG opened no new investigations and referred no matters to prosecutorial authorities during this period.

In addition to these audit and investigative activities and outcomes, the OIG began quarterly meetings with other Designated Federal Entity OIGs to discuss issues, outcomes and solutions endemic to smaller IG offices. We responded to a congressional request for information on open OIG recommendations and participated in a Government Accountability Office survey on the independence, effectiveness and expertise of inspectors general, as required by the Dodd-Frank Reform Act (Pub. L. 111-203, 124 Stat. 1376, July 21, 2010). We continue to respond to consumers who were victimized as part of an internet scam operation using FMC indicia, selected a new information security contract evaluation team and began substantive revisions to the office's Investigations Manual in anticipation of an investigations peer review.

BACKGROUND

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

The FMC is headed by five Commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. For Fiscal Year (FY) 2011, the Commission operated under a continuing resolution at FY 2010 levels. The FY 2010 appropriation was \$24.1 million.

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

The FMC/OIG was established in 1989 as required by the Inspector General Act of 1978, as amended (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an Inspector General (IG) who reports directly to the Commissioners of the FMC. To aid the FMC in accomplishing its mission, the OIG was provided three full-time staff and a budget of \$714,000.

The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of finding and preventing fraud, waste and abuse, and promoting economy, efficiency and effectiveness within the agency. OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals, or entities having contracts with, or obtaining benefits from, the agency. The Inspector General Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

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

AUDITS/EVALUATIONS

During this semiannual period, the OIG issued a program review of the Commission's Ocean Transportation Intermediary bond program, and began fieldwork on the annual (i) financial statement audit and (ii) information security evaluation. We also began planning activities associated with our review of the Bureau of Enforcement's (BOE) Compliance Audit Program.

Issued Audits and Reviews

Audit Report Number

Subject of Audit

OR11-02

**Review of the Federal Maritime Commission's
Office of Transportation Intermediaries,
Financial Responsibility Program**

Summary of Audits and Reviews Issued During the Current Period

In **OR11-02, *Review of the Federal Maritime Commission's Office of Transportation Intermediaries, Financial Responsibility Program***, the objectives were to assess agency controls in place to ensure that ocean transportation intermediaries (OTI) (i) obtain a bond prior to licensing, (ii) maintain a bond while providing OTI services, and (iii) are inactivated in public databases maintained by the FMC when bonds are terminated or cancelled. We also reviewed whether OTI status information maintained on the Commission's website is accurate and up to date.

The Office of Transportation Intermediaries gets high marks for its management of the "bond" program. Licenses are conditionally approved pending receipt of bond information. The office sends out notices to new applicants timely alerting them to approaching deadlines for bond submissions. We also found that termination notices are timely sent to OTIs whose bonds were cancelled and that licensees are removed from the *OTI List* on the agency's website when bonds are revoked or terminated.

On the other hand, we identified several discrepancies between two databases maintained on the agency's website: the *OTI List* and the *Links to Tariffs* databases. Both links are used by the

public and industry to obtain important information regarding OTI license status and tariff location, respectively. These two databases should reconcile, but they do not. Besides presenting confusing and contradictory information to the public and industry, the users could erroneously conclude that an Non Vessel Operating Common Carrier (NVOCC) meets all Commission regulations by appearing on the *Links to Tariffs* list. Procedures to streamline removal of organizations from *Links to Tariffs* should be implemented.

The bond and tariff programs would benefit from enhanced automated processes. Currently, the programs are administered in two different bureaus on two separate applications. The problem cited above would be addressed if the systems were merged into a larger enterprise-wide database system. The OIG recommended that a link be established that would rely on technology to maintain consistency between the databases. Relying more on automation and less on manual processes should have a material and immediate impact on database consistency without requiring new technologies to be purchased.

Planned Audits and Reviews

<u>Audit Report Number</u>	<u>Subject of Audit</u>
A12-XX	Audit of FMC's FY 2011 Financial Statements
A12-XX	Management Letter to the FY 2011 Audited Financial Statements
OR12-XX	Independent Evaluation of FMC's Implementation of the Federal Information Security Management Act for FY 2011
OR12-XX	Review of the Bureau of Enforcement's Compliance Audit Program

In A12-XX, *Audit of FMC's FY2011 Financial Statements*, the audit objective is to opine on whether the FMC's FY 2011 financial statements follow Generally Accepted Accounting Principles and present fairly the financial position of the agency. The OIG will also review internal controls over financial reporting and agency compliance with laws and regulations. The statements to be audited are the Balance Sheets as of September 30, 2011 and 2010, and the related Statements of

Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources, Statements of Financing and Statements of Custodial Activity. This will be the eighth consecutive year that the FMC prepared financial statements for audit.

The OIG will also prepare a *Management Letter* that presents findings arising from the review of the statements that are not material to the financial statements in the current year, but if not addressed, could materially affect future statements.

In OR12-XX, *Independent Evaluation of FMC's Implementation of the Federal Information Security Management Act (FISMA) for FY 2011*, the objectives are to (1) evaluate the agency's information systems security program and assess compliance with FISMA and related information security policies, procedures, standards and guidelines; (2) evaluate responses to prior recommendations, and (3) review agency activities associated with its responsibilities under the Privacy Act. This year the OIG will issue an independent evaluation of the agency's information security program and submit a report to the Office of Management and Budget in response to specific security-related questions provided to all federal departments and agencies subject to FISMA.

In OR12-XX, *Review of the Bureau of Enforcement's Compliance Audit Program*, the review objectives are to assess the overall effectiveness of the program. Specifically, we will evaluate controls in place to ensure the accuracy of responses from industry on questionnaires used by BOE in the audit process, review program performance measures and document program accomplishments. Finally, we will assess BOE's follow-up processes to validate corrective action.

INVESTIGATIVE ACTIVITIES

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

OIG received nine complaints. We responded to four of the complaints and forwarded five complaints to the appropriate FMC program area for disposition. The OIG opened no new investigations and referred no matters to prosecutorial authorities during this period.

Additionally, the OIG continues to work with the agency's Office of General Counsel concerning an ongoing Internet scam that attempts to defraud the public by, among other things, using the agency's official insignia.

OTHER OIG ACTIVITIES

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the Office of Inspector General routinely reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed legislation or regulation (1) impacts the economy and efficiency of FMC programs and operations, and (2) contains adequate internal controls to prevent and detect fraud and abuse.

Council of Inspectors General on Integrity and Efficiency Activities

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

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

The CIGIE is comprised of all inspectors general that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads.

The OIG remains active in the CIGIE operations. For example, the IG is a member of CIGIE's Legislation and Integrity Committees. The Legislation Committee is a centralized point-of-contact and liaison for CIGIE to ensure regular and ongoing communication with Congressional committees, committee staff and the Government Accountability Office regarding issues of common interest, and provides input to, and receives feedback from, the Congress on legislation affecting the IG community as a whole. The Integrity Committee is charged with receiving, reviewing, and referring for investigation, where appropriate, allegations of administrative (non-criminal) misconduct against inspectors general and designated senior staff members of the OIG. The Committee's membership consists of the Federal Bureau of Investigation's representative to the CIGIE, who serves as its Chairperson; the Special Counsel of the Office of Special Counsel, the Director of the Office of Government Ethics; and four federal inspectors general.

The Assistant Inspector General for Audits participates in Federal Audit Executive Council (FAEC) activities. The FAEC is comprised of senior audit staff from agency OIGs that discuss and coordinate issues affecting the Federal audit community - with special emphasis on audit policy and operations of common interest to FAEC members. The Counsel to the Inspector General participates in the Council of Counsels to the Inspector General (CCIG) activities. The CCIG consists of senior counsel from agency OIGs who discuss various legal issues that affect the OIG community.

Also, during the reporting period, in accordance with the Inspector General Reform Act, FMC/OIG provided legal services, on a reimbursable basis, to the Architect of the Capitol, OIG, pursuant to a Memorandum of Understanding.

Peer Review Activities

Federal Offices of Inspector General are required by the IG Act to have a peer review performed once every three years. These reviews are to be performed only by federal auditors. A committee of the CIGIE schedules the review to ensure that resources are available to perform them and that OIGs do not conduct reciprocal reviews.

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The objectives of a peer review are to determine, for the audit function, whether an effective quality control system has been established in the office and if policies, procedures and applicable government auditing standards are being followed.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, requires federal offices of inspectors general to include, in their semiannual reports to Congress, an appendix containing the results of any peer review conducted by another OIG during the reporting period, or if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another OIG. The last peer review of the FMC OIG was issued on March 12, 2010, outside of this reporting period. There are no unimplemented recommendations from this or any previous peer review. The March 2010 peer review opinion and report are available on the OIG's webpage at www.fmc.gov/bureaus_offices/office_of_inspector_general.aspx.

During this reporting period, the OIG completed a peer review of the Office of Inspector General at the Federal Election Commission (FEC/OIG) pursuant to *Government Auditing Standards* requirements. A final report was issued to the FEC/IG on May 5, 2011.

Significant Management Decisions

If the IG disagrees with any significant management decision, Section 5(a)(12) of the Inspector General Act requires that such disagreement be reported in the semiannual report. Further, Section 5(a)(11) of the Act requires that any decision by management to change its response to a significant resolved audit finding must also be disclosed in the semiannual report.

For this reporting period, there were no significant management decisions made on which the IG disagreed, and management did not revise an earlier decision on an OIG audit recommendation.

Access to Information

The IG is to be provided with ready access to all agency records, information or

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

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

Audit Resolution

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken. As noted below, 21 of these recommendations remain open past one year.

	<u>Short Title</u>	<u>Report Issue Date</u>	<u>Open Rec.(s)</u>	<u>Elapsed Months (as of 9/30/11)</u>
1	Helpdesk Satisfaction Survey	8/6/10	4	13
2	User Fee Calculations	5/27/10	1	16
3	T&A – Capping Report	5/14/10	2	16
4	FISMA Evaluation for 2009	1/28/10	8	20
5	Bureau Timekeeping Practices	6/30/09	1	27
6	Agency Checkout Process	1/12/09	1	32
7	Privacy & Data Protection	9/22/08	1	36
8	FISMA Evaluation for 2008	9/22/08	1	36
9	FISMA Evaluation for 2006	10/2/06	1	59
10	Accuracy of Enforcement Databases	3/31/06	1	66

The agency closed eight recommendations from the prior reporting period. The oldest recommendation (66 months) involves “Pay.gov,” a payment system available to all federal agencies that enables agency customers to make secure electronic payments to the agency

directly from their bank accounts or by credit/debit cards. The FMC still processes the majority of its transactions with customers, including regulated entities, by bank check. In recent updates, management told the OIG that it will implement Pay.gov with other information technology modernization projects. However, in its October 27, 2011, update on open recommendations, management informed that it has continued to work with Treasury to develop agency applications and to choose an agency interface. Management anticipates that it will phase in Pay.gov by March 2012.

Contacting the Office of Inspector General

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

SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

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

TABLE I

INSPECTOR GENERAL ISSUED REPORTS WITH QUESTIONED COSTS

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

TABLE II

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

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

HOTLINE COMPLAINTS

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

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR DIRECT LINE

(202) 523-5865

E-MAIL ADDRESS:

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

TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:

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

To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL AND YOU CAN BE ANONYMOUS

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