

FEDERAL MARITIME COMMISSION



ANNUAL PROGRAM PERFORMANCE REPORT

FOR FY 2006

OCTOBER 2006

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Introduction

The Commission has prepared the following Annual Program Performance Report for FY 2006, as required by GPRA, and in accordance with OMB Circular No. A-11, Part 2. The Commission's actual performance in FY 2006 is compared with the projected levels of performance established in the agency's FY 2006 Final Annual Performance Plan (See Appendix E for a copy of the Agency's FY 2006 Plan).

This progress report covers the Commission's efforts in FY 2006 to foster an equitable, secure, and market driven ocean transportation industry. The Commission focused on refining the agency's business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. This includes facilitating the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and implementation of procedural changes to enhance the effectiveness of agency operations. We broadened our efforts to implement the President's Management Agenda initiative to expand electronic government by improving the management of information through the more effective use of available technologies. We also streamlined the delivery of services and information to regulated entities, other government agencies and the public, and further automated agency systems and enhanced the use of agency databases to allow staff to discharge program responsibilities more effectively. Further, we simplified and refined the agency's performance appraisal system and developed a strategic succession plan for agency senior executives and non-SES upper level managers.

We achieved overall success in reaching our stated goals and objectives, accomplishing most. 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 are linked directly to our Strategic Goals. While our FY 2006 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 2006. 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, 2004 and 2005 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.

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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. In 2006, the agency continued to focus on staff and program issues, and emphasized succession planning and expanding electronic government.

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.

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Progress in Achieving Performance Goals

The Performance Goals of the Commission's FY 2006 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:

By 9/30/06, make selected Opening/Reply Briefs & Exceptions & Replies in docketed proceedings available to the public through the Commission's website.

Progress: During FY 2006, the Commission completed this goal. Several significant dockets were identified and key documents filed in each proceeding were scanned, and posted on the Commission website. The key documents included the initial filing (i.e., complaint), notice of filing, opening and reply briefs, the Administrative Law Judge's initial decision, exceptions and replies (if any), and the Commission's final decision. The Commission plans to continue to make these types of documents, as well as other important filings and issuances in docketed proceedings, available in electronic form through its website.

Performance Goal 2:

By December 2005, complete project for scanning & posting historical Commission decisions issued between 1989 & 1996.

Progress: This performance goal was significantly completed during the fiscal year. Historical Commission decisions issued between 1989 and 1996 were identified, scanned, and stored electronically. Decisions from 1989-1991 were posted on the Commission's website. The balance of the electronic documents (from 1992-1996) will be posted on the Commission's website by the end of October 2006 – at which time this goal will be completed.

Performance Goal 3:

By 6/30/06, provide the option of filing carrier & marine terminal agreements online.

Progress: While this performance goal has not yet been accomplished, the Commission has done the following: determined the parameters of the process in terms of security issues, e-signature and e-payment capabilities, and format and storage/retrieval questions; investigated whether, and to what extent, this project could be incorporated within other ongoing IT initiatives; and vetted the idea with industry contacts. The concept of e-filing of agreements received highly favorable reactions from our industry contacts, particularly with respect to the notion of e-payments. As more funding becomes available to address IT initiatives, the Commission anticipates completing this project, hopefully in FY 2007.

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Progress in Achieving Performance Goals (continued)

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:

By 9/30/06, enhance use of SC and NSA data, and evaluate SERVCON system functionality.

Progress: The performance goal has been achieved. During FY 2006, the automated SERVCON system for filing service contracts and NVOCC service arrangements (“NSAs”) was upgraded. Major performance enhancements were made to the system such as screen display cleanups, faster retrieval and more reliable architecture. The new SERVCON has the same look as the previous system with the exception of a small change regarding the menu selection screens to make it more straightforward for external filers of service contracts. In the upgraded system, filers are able to view only menu selections that they need and are able to access, e.g., File Contracts, View Contents of Personal Directory Before Uploading, or File Corrected Transmission/Copy, rather than additional menu items such as Management, Search, or View Flagged Contracts, that are for FMC internal users. Further, the system’s upgraded search feature enables internal users to sort and retrieve data faster and more accurately, and to create profiles regarding specific carrier service contract or NSA activities to use in the development of trade profiles data and preparation of reports. In addition, the upgraded SERVCON system facilitates an automated rather than manual filing process for external filers to submit/upload service contract and NSA filings into the system, and accommodates a placeholder feature for carrier organization numbers. The placeholder allows service contracts that have been filed under a carrier’s previous name to be amended under a carrier’s new organization number resulting from a name change, without having to re-file the original contract and past amendments.

Performance Goal 2:

Evaluate OTI rules & suggest changes, if necessary, to address industry & agency concerns.

Progress: The Commission has met this goal. The Commission initiated a re-evaluation of its regulations of OTIs, examined its business processes and policies with respect to OTIs, and sought to construct a more comprehensive regulatory model reflecting state of technology and new and future trends in the OTI industry. Automating the Form FMC-18, the application form required to be licensed as an OTI, is well underway and is just one example of changes to FMC business processes to improve the timeliness of licensing decisions. Future rulemaking to implement changes to the Commission’s OTI policies and procedures will be commenced in FY 2007. The Commission continues its efforts to directly inform OTIs of licensing requirements and assist small businesses in meeting the application and licensing requirements.

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:

By 9/30/06, align BTA’s MR program for carrier agreements with the amended MR regulations in FMC Docket No. 03-15.

Progress: This performance goal has been achieved. Prior to the effective date of the Commission’s revised monitoring reports and meeting minutes regulations, the Commission met with various attorneys representing the major carrier agreements to explain the new reporting requirements. In addition, letters were sent to carrier agreements explaining their new reporting requirements under the Commission’s revised regulations.

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Progress in Achieving Performance Goals (continued)

Requests for partial waiver of specific reporting requirements were granted in cases where the agreement could continue to be effectively monitored by the Commission. Subsequent to the receipt of the revised monitoring reports and meeting minutes submitted by the agreement parties, the reports were reviewed for content and compliance. In cases where data was incomplete or raised questions, staff followed up with telephone calls, letters or meetings to outline the problems found with the information submitted to the Commission. Any remaining issues are in the process of being rectified. During FY 2006, two extensive compliance checks were conducted to ensure that agreements were submitting monitoring reports and/or meeting minutes in accordance with their specific report requirements. All agreements have now substantially complied with the Commission's new monitoring regulations.

Performance Goal 2:

Participate effectively in ITDS program.

Progress: This performance goal has been met. During FY 2006, staff attended numerous meetings related to completion of the "Business Blueprinting" process necessary to integrate import, inspection and licensing functions of Federal agencies within Release 5 of the Automated Commercial Environment ("ACE") program. In June 2006, the Commission was invited to nominate a representative to the ITDS Board of Directors. A Commission senior executive was chosen to fill that role. In addition, a senior manager serves on the ITDS legal and policy committee. Various Commission staff have completed background investigations and been granted interim access to ITDS through the ACE portal.

Strategic Goal: Technological Efficiencies

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

Performance Goal 1:

Electronic payment of user fees.

Progress: The agency has not yet met this goal. Subsequent to initial planning efforts, the agency determined that limiting the potential use of an electronic payment option to user fees was too narrow a focus. Instead, the agency has begun to explore options for payment of fines and penalties as well, such as utilizing Pay.gov to accept secure electronic payments directly from an entity's bank account or credit/debit card. Staff have been in contact with the Department of Treasury, which coordinates Pay.gov, to gather further information as to agencywide usage and requirements. The process for implementation of such a process is quite complex. However, assuming no significant obstacles, it is anticipated that implementation will take place late in FY 2007.

Performance Goal 2:

Analyze information collections of the agency and update them as necessary to ensure they are meeting the needs of the users in the most efficient way possible, by being centralized, secure, and containing no unnecessary duplication.

Progress: This goal has been accomplished. The agency fulfilled the requirements of this goal by reviewing its information systems and modifying and updating where appropriate. A Data Information Task Force was established to gather information and valuable input from representatives across the agency. Several information collections were modified and updated in response to expressed needs from agency staff. The agency's enforcement case tracking system and the consumer complaints data base were transferred from older protocols into relational database configurations in order to expand user access, security, transparency and speed of access. The work of the Data Information Task Force was taken over by an agency Plan of Action and Milestones strategic planning initiative. Several information collections are being significantly expanded and made available to users for electronic filing.

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Progress in Achieving Performance Goals (continued)

Performance Goal 3:

Streamline agency procurement procedures, including: (1) credit card micro-purchases & (2) receiving & accepting of goods & services.

Progress: This performance goal has been met. The Commission has entered into an agreement with the Bureau of Public Debt to assume certain procurement functions. Further, the agency has a framework for a standard operating procedure to address credit card micro-purchases and the receipt and acceptance of goods and services, developed in conjunction with recommendations made by the Bureau of Public Debt. While work continues on refining and finalizing the standard operating procedures, the essential elements are in place.

Strategic Goal: Management Capabilities

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

Performance Goal 1:

Simplify and refine the agency's performance appraisal system so that expectations are clearly reflected, performance properly assessed via appropriate measures, and the system facilitates growth and development.

Progress: This performance goal has been substantially completed. A task force of senior and mid-level managers developed revised guidelines and a new performance appraisal form which simplifies the current process, facilitates consistent approaches to employee appraisals, and provides a clearer, easier to use framework for reflecting expectations and assessing performance. This proposal is under review by senior managers, and after roll-out of the new form and training for managers and all staff, we anticipate implementation of the revised approach in January, 2007. The agency also has introduced, via a pilot program, an individual development program which will be used as a tool to help guide careers and develop/enhance skills; the employee and supervisor agree on career objectives to be pursued and activities that can help achieve those objectives, then activities are selected to provide the employee with the opportunity to gain knowledge, develop skills and operate in specific circumstances that can broaden perspectives. It is anticipated that after the pilot program concludes early in FY 2007, all agency employees will utilize IDPs, which will work together with performance plans to frame an employee's activities over a given period.

Performance Goal 2:

Develop strategic succession plan for agency senior executives & non-SES upper level managers.

Progress: This performance goal is complete. During FY 2006, the Commission instituted a Senior Executive Service Candidate Development Program, selecting several employees who have already begun their individual educational and training programs. Further, during FY 2006, the agency instituted its first ever Emerging Leaders Program, designed to provide career development opportunities and tailored work experience for mid-level staff and managers. The initial participants have been selected and are close to finalizing their specific development plans for the program. The Commission plans on conducting a second version of this program later in FY 2007, relying on lessons learned in this first effort to refine it as necessary.

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FY 2003, 2004 and 2005 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: The goal has been completed. During FY 2006, the pilot informal complaints database developed at the end of FY 2005 was tested and evaluated. Based on that evaluation, it was determined that the Commission's needs would be more appropriately met by developing the database with a more modern, more flexible, web-based software application. The database, along with standard data entry screens, standard queries and reports, and the ability to run customized reports was completed, tested, and deployed during FY 2006. The system is fully operational with staff entering and retrieving data on a daily basis. Other Commission offices have been given access to the database to use as a research tool in their respective program areas. As with all systems, the database will be evaluated periodically to modify programming as needed.

This section discusses the goals from our FY 2004 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 1 (Certification and Licensing Program Activity):

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

Progress: While this goal has not been met, the Commission continues to make significant progress to update the RPI system. The reprogramming of the RPI is near completion. The system has been enhanced to include an option to generate various reports. Final testing is underway and the Commission expects the system to become operational in early FY 2007. In addition, new enhanced query functionality and data presentation format are being developed for delivery in early FY 2007.

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: The Bureau continues working on the rulemaking to ensure that the Passenger Vessel Program provides adequate consumer protection without being unduly burdensome on the industry. The staff continues to analyze financial information related to certain cruise lines' operations, etc., and efforts remain ongoing as the Commission continues to pursue an updated Rule.

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Progress in Achieving Performance Goals (continued)

This section discusses the goals from our FY 2005 Annual Performance Plan which we reflected in our FY 2005 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

Strategic Goal: Efficient Regulatory Process

Performance Goal 2:

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

Progress: After reassessing this goal, the Commission has determined to eliminate it for the foreseeable future. The Commission has determined that recent staffing changes and the need to complete certain related technological initiatives are necessary before we can effectively revise our Rules of Practice and Procedure. To do otherwise could result in additional cost and duplication of effort.

Performance Goal 3:

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

Progress: While the Commission has not completed this goal, progress has been made in developing an automated Form FMC-18 filing system. During FY 2006, the Commission further defined system requirements and user needs in order to migrate from the present paper-based OTI licensing application Form FMC-18 to an automated Form FMC-18. During this period, software development expertise was brought into the agency and the first phase of the automated system, the electronic filing component, was developed. Internal testing of the system's electronic filing capabilities has been completed, refinements have been integrated, and the Commission is presently addressing security issues. It is anticipated that the first phase, optional electronic filing, will be implemented in the winter of 2006, at the conclusion of a brief external testing period in the fall. The second phase involves streamlining and automating internal processing procedures. Enhancements to the system, including electronic payments, e-signatures, and electronic filing of bond information are scheduled to be implemented in future releases. It is anticipated these changes will permit a more thorough review of applications, decrease costs, and increase productivity.

Strategic Goal: Compliance

Performance Goal 1:

Develop public relations strategies and programs.

Progress: This performance goal has been met. In FY 2006, the Commission continued to formalize the development of public relations strategies and programs begun in 2005. Several new lists of government and media contacts were compiled and used to inform the public of Commission actions. Public relations policies throughout the agency were collected and evaluated to determine the best overarching strategy. The Commission continued to develop updated educational and informational materials for outreach events.

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Progress in Achieving Performance Goals (continued)

Performance Goal 2:

Enhance industry outreach.

Progress: This goal is closely related to the Performance Goal Number 1, “Develop public relations strategies and programs” and was also further developed in FY 2006; thus, this goal has been accomplished. As part of our outreach efforts, the Commission designed and produced informational material including brochures, a banner, and other handouts that were used at industry conferences and other public gatherings. There was increased Commission presence at industry events and conferences. The staff also, increased its outreach efforts on an individual basis through telephone calls and personal visits. In addition, the Commission continued to host industry leaders to facilitate dialog between the staff and regulated community.

Performance Goal 3:

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

Progress: This goal has not yet been completed. The original Performance Goal of providing VOCCs with an opportunity to establish “best practices” to restrict service to unlawful entities has been revised and enlarged to include “best practices” by NVOCCs, as well. There are nearly 4,000 licensed OTIs and their participation in developing best practices is critical to the overall efforts. The principals underlying effective “best practices” have been developed, along with model provisions covering tariff and service contract operations, and have been reviewed by, and discussed among, senior staff. Review by the Commission is scheduled for early FY 2007, with implementation, including publication on the Commission’s website and outreach efforts, to begin by the end of the first quarter of FY 2007.