

# **FEDERAL MARITIME COMMISSION**

**BUDGET ESTIMATES**

**Fiscal Year 2011**

A close-up, slightly angled view of the American flag. The top-left corner shows the blue field with white stars, while the rest of the image is dominated by the red and white stripes. The flag appears to be waving or draped, creating a sense of movement.

**SUBMITTED TO THE APPROPRIATIONS COMMITTEES**

**FEBRUARY 1, 2010**



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**Alphabetical Listing of Abbreviations**

**-#-**

1920 Act	Section 19 of the Merchant Marine Act, 1920
1978 Act	Inspector General Act of 1978
1984 Act	Shipping Act of 1984

**-A-**

ACE/ITDS	Automated Commercial Environment/International Trade Data System
ADR	Alternative Dispute Resolution
AED	Automatic External Defibrillator
agency	Federal Maritime Commission
ALJ	Administrative Law Judge
APM	APM Terminals North America, Inc.
AR	Area Representative

**-B-**

BCL	Bureau of Certification and Licensing
BOE	Bureau of Enforcement
BPD	Bureau of Public Debt
BSC	Building Security Committee
BTA	Bureau of Trade Analysis

**-C-**

CADRS	Consumer Affairs and Dispute Resolution Services
CBP	U.S. Bureau of Customs and Border Protection
CCIG	Council of Counsels to Inspectors General
CFR	Code of Federal Regulations
CIGIE	Council of Inspectors General on Integrity and Efficiency
CII	Container Innovations, Inc.
CIO	Chief Information Officer
COOP	Continuity of Operations
CTP	Clean Truck Program

**-D-**

DCIA	Debt Collection Improvement Act of 1996
DHS	Department of Homeland Security

**-E-**

EC	European Commission
ECC	Exemption Council Regulation
EEO	Equal Employment Opportunity
e-library	Electronic Library
eOPF	Electronic Official Personnel Folder
EU	European Union

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Federal Maritime Commission

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**-F-**

FAEC	Federal Audit Executive Council
FISMA	Federal Information Security Management Act of 2002
FMC	Federal Maritime Commission
FOIA	Freedom of Information Act
FSPA	Foreign Shipping Practices Act of 1988
FTE	Full-time Equivalent
FY	Fiscal Year

**-G-**

Global Link	Global Link Logistics, Inc.
GPEA	Government Paperwork Elimination Act
GSA	Government Services Administration

**-H-**

HSPD-12	Homeland Security Presidential Directive 12
HQ	Headquarters (FMC)
HR	Human Resources

**-I-**

IAG	Interagency Agreement
IG	Inspector General
Intership	International Shipping Agency, Inc.
IT	Information Technology

**-L-**

Landstar	Landstar Global Logistics, Inc.
LMC	Licensed Motor Carrier

**-M-**

Maher	Maher Terminals, LLC
MD-715	Management Directive 715
MD&A	Management's Discussion and Analysis
MOU	Memorandum of Understanding
MTO	Marine Terminal Operator

**-N-**

NEPA	National Environmental Policy Act of 1969
NFC	National Finance Center
NRDC	National Resources Defense Council, Inc.
NSA	NVOCC Service Arrangement
NVOCC	Non-Vessel-Operating Common Carrier

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Federal Maritime Commission

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-O-

OA	Office of Administration
OAGR	Office of Agreements
OALJ	Office of Administrative Law Judges
OECA	Office of Economics & Competition Analysis
OFF	Ocean Freight Forwarder
OFM	Office of 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
OS	Office of the Secretary
OSCT	Office of Service Contracts & Tariffs
OSRA	Ocean Shipping Reform Act of 1998
OTI	Ocean Transportation Intermediary

-P-

PAR	Performance and Accountability Report
PANYNJ	Port Authority of New York and New Jersey
PIERS	Port Import Export Reporting Service
PIO	Performance Improvement Officer
P.L.	Public Law
Port	Port of Los Angeles
PRPA	Puerto Rico Ports Authority
PVO	Passenger Vessel Operator

-Q-

QI	Qualifying Individual
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-R-

Reform Act	Inspector General Reform Act of 2008
RPI	Regulated Persons Index

-S-

SAC	Small Agency Council
SES	Senior Executive Service
SERVCON	Service Contract Filing System
SERVCON CAT	Service Contracts Analysis Tool
Shipping Act	Shipping Act of 1984
SWAT	Rapid Response

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Federal Maritime Commission

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**-T-**

Team Ocean	Team Ocean Services, Inc.
the Ports	The Port of Los Angeles and the Port of Long Beach
Tober	Tober Group, Inc.
TSA	Transpacific Stabilization Agreement

**-U-**

UK	United Kingdom
UPR	Unearned Passenger Revenue
URL	Internet Location
U.S.	United States of America
U.S.C.	United States Code

**-V-**

VOCC	Vessel-Operating Common Carrier
VoIP	Voice over Internet Protocol
VSCG	Voluntary Service Contract Guidelines

**W-**

WIGs	Within-grade Increases
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## **FMC Core Functions**

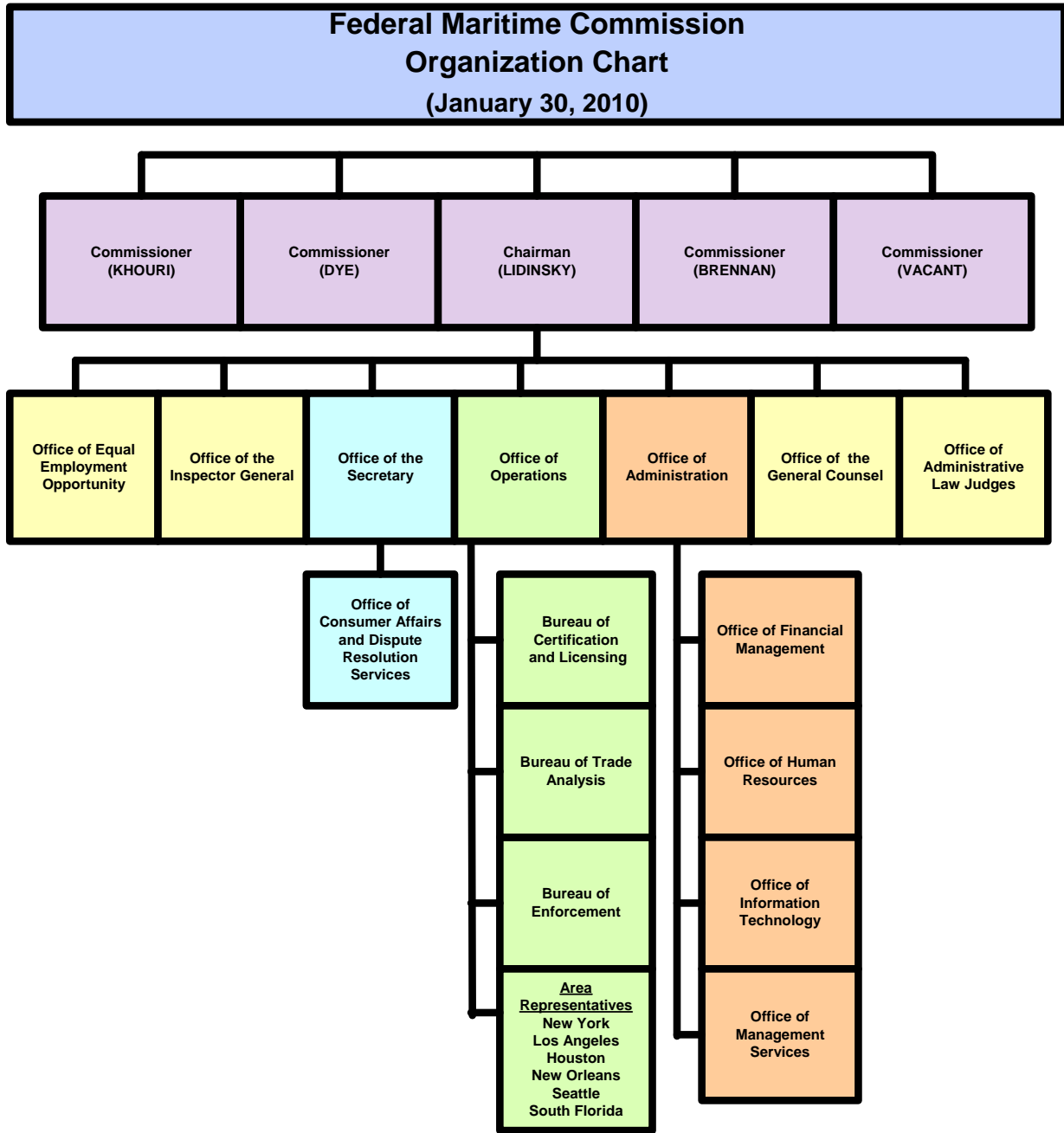
The Federal Maritime Commission (FMC or agency) is an independent regulatory agency which administers the Shipping Act of 1984 (1984 Act or Shipping Act) as amended by the Ocean Shipping Reform Act of 1998 (OSRA); section 19 of the Merchant Marine Act, 1920 (1920 Act); the Foreign Shipping Practices 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 (MTOs), 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, service contracts, and service arrangements 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 (OTIs) in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators (PVOs) demonstrate adequate financial responsibility in case of nonperformance of voyages or injury to passengers.

## **FMC 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 Commissioner to serve as Chairman, the Chief Executive and Administrative Officer of the agency. The FMC's organizational units consist of: Office 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 (OALJ); 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 Financial Management (OFM), Human Resources (OHR), Information Technology (OIT), and Management Services (OMS). The majority of FMC personnel are located in Washington, D.C., with Area Representatives (ARs) in New York, New Orleans, Los Angeles, Seattle, Houston and South Florida. Chairman Lidinsky has announced a reorganization of the FMC, which was effective January 31, 2010. The reorganization will create administrative efficiencies for the agency. This budget submission does not reflect that new organization.



Federal Maritime Commission



## **Fiscal Year 2011 Policy and Funding Priorities**

In fiscal year (FY) 2011, the Commission's policy and funding priorities center on fostering a viable and vibrant liner shipping environment critical to the nation's international trade and economic growth. The FMC has a twofold policy focus in both maintaining an efficient and competitive international ocean transportation system and protecting the public from unlawful, unfair and deceptive ocean transportation practices. The accomplishment of these strategies is critical to the President's goals to encourage economic growth, invest in the future, and responsibly govern the nation. The smooth flow of international commerce is vital to the national economy in both providing access to foreign markets for our exports and ensuring the availability of imported goods for domestic production and consumption. The ocean transportation regime regulated by the FMC is responsible for the movement of the greatest portion of the nation's international trade in goods. That this environment continue to function in a smooth and orderly manner is critical to our nation's economy.

The agency strives to move forward in accomplishing its goals while the shipping industry and the shipping public grapple with the impact of the recent economic downturn. The regulatory scheme now in place at the FMC is under constant review and as economic conditions alter the state of our trades, the FMC's regulations must continue to reflect those conditions. In the coming fiscal years, the Commission will respond to public requests for review of regulations on issues such as tariff publication and the scope of regulation of the business relationships of OTIs. Evolving business models requiring Commission attention in the coming years are likely to include the increased use of MTO discussion agreements and OTI freight networks. Continued and enhanced emphasis on outreach to the shipping public will be key to bringing unlawful operators into compliance with licensing and other requirements and protecting the public from financial and other harm. The use of technology and public information will be paramount in all Commission actions, programs and interactions with the public. Web-based accessibility to Commission services and information will facilitate both public interaction with the agency and add greater efficiencies to internal business processes. These actions and more will provide the means for the FMC to accomplish its mission of fostering a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.

In fiscal year 2010, the Commission will be undertaking a new Green Initiative, committing the Commission to deliver new policy and regulatory capabilities to better incorporate environmental concerns as well as address the probable impacts of such concerns when they arise in the course of the Commission's regulatory processes. Responsive to the environmental community and, more recently, to comments from White House staff and members of Congress, the Commission now seeks to "build in" the capacity to receive, analyze and promulgate regulatory actions which reflect appropriate deference to environmental needs, objectives and mandates. The internal "Green Group" chaired at the Commission level will meet periodically to review internal and external developments having environmental implications for the shipping and port industries.

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**Federal Maritime Commission**

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The Commission is pursuing Information Technology (IT) initiatives to comply with governing IT statutes and regulations, as well as evaluating use of IT to increase productivity, particularly in the licensing process. To pursue this effort, we are requesting an additional IT position. We believe enhanced information systems are critical to identification of regulated entities, to information sharing with our counterparts at U.S. Bureau of Customs and Border Protection (CBP) and other Federal agencies, and to permitting our Area Representatives, Bureau of Enforcement and consumer affairs representatives timely and comprehensive access to data needed to address OTI practices that abuse or defraud the shipping public.

## **Highlights and Planned Activities Statements**

### **Fiscal Year 2009 Accomplishments**

In fiscal year 2009, the Commission focused on its mission to foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices. The highlighted actions capture agency activities in pursuit of this mission.

### **Efficiency and Competition**

#### **Efficiency and Competition in the Trades**

The FMC is charged with ensuring competitive and efficient ocean transportation for the shipping public through its oversight authorities. Competition in the trade helps to keep rates lower and service offerings diverse and innovative to the benefit of the shipping public and ultimately American exporters and consumers. Ocean carriers and marine terminal operators are granted limited antitrust immunity by the Shipping Act of 1984. The FMC has the responsibility of guarding against possible abuse of that immunity. Amidst the global economic downturn in fiscal year 2009, the FMC took action to protect the industry and the public against unreasonable increases in transportation costs or reduction in transportation services.

- To address concerns about competitive conditions in Oceania, staff collected and analyzed an extensive set of specific pricing, financial and operational data from carriers serving the trade between the U.S. and Australia/New Zealand following the issuance of an order under section 15 of the Shipping Act.
- The Transpacific Stabilization Agreement (TSA), a 14-member carrier agreement with substantial market share in the Asia/U.S. trades, proposed to amend the agreement to discuss the potential for creating a plan to jointly rationalize capacity in the nation's largest inbound liner trade. To fulfill its statutory responsibility to evaluate the potential economic and anticompetitive impacts of the proposed amendments, the Commission requested that TSA and its member lines provide additional information. TSA subsequently withdrew the amendment.
- Staff defined the parameters of a study that will examine the impact of eliminating antitrust immunity in the U.S.-Europe trades as a result of the repeal by the European Union (EU) of the block exemption [Exemption Council Regulation (ECC) No. 4056/86] for liner shipping conferences in the EU trades, allowing input from the shipping industry and other stakeholders.
- The Commission initiated a formal investigation to determine whether certain practices of the Ports of Los Angeles and Long Beach violated the Shipping Act of 1984. Upon the motion of the Bureau of Enforcement, the proceeding was dismissed on August 21, 2009.

- The Commission undertook a competitive impact assessment of the Clean Trucks Program (CTP) devised by the Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement to determine whether certain elements of the program would likely, by a reduction in competition, produce an unreasonable reduction in transportation services or unreasonable increase in transportation costs. As a result of this assessment, by a 2-1 vote, with Commissioner Brennan dissenting, the Commission instituted an action pursuant to section 6(g) of the Shipping Act, seeking to enjoin those problematic portions of the Agreement in the U.S. District Court for the District of Columbia. On July 24, 2009, the Commission and the Ports filed a joint stipulation dismissing the proceeding. The proceeding was terminated on July 29, 2009.
- The Commission affirmed a settlement agreement in Docket No. 07-01 - *APM Terminals North America, Inc. v. Port Authority of New York and New Jersey*. APM Terminals North America, Inc. (APM) commenced this proceeding by filing a complaint alleging that the Port Authority of New York and New Jersey (PANYNJ) violated the 1984 Act by failing to tender an additional portion of marine terminal property provided for in a lease between APM and the Port Authority. APM also claimed that the Port Authority's action unlawfully preferred Maher Terminals, LLC (Maher), also a marine terminal operator. The presiding ALJ approved a settlement agreement and supplemental agreement between APM and PANYNJ, which was affirmed by the Commission on April 1, 2009. In so doing, the Commission rejected assertions by Maher seeking to block the settlement, and Maher's claims therein have been consolidated within its separate complaint case (Docket 08-03).
- The FMC, through the OGC, monitored the laws and practices of foreign governments and monitored activities in the U.S. foreign trades to address appropriately any condition which appeared unfavorable to U.S. shipping interests.
- During fiscal year 2009, the BTA and BCL regularly briefed the Commission on the impact of the economic downturn on the shipping industry and consumers generally.
- In fiscal year 2009, the FMC received 45,328 service contract filings and 412,570 amendments to confidential filings from common carriers.

### **Protecting the Shipping Public**

#### **The Shipping Public**

The FMC has a wide variety of responsibilities to protect the public from financial harm, including assisting in the resolution of disputes related to the shipment of goods or the carriage of passengers, investigating and prosecuting unreasonable or unjust practices, and satisfying formal complaints alleging violation of the Shipping Act. In fiscal year 2009, with the global economic downturn, the FMC observed trying conditions for the shipping industry which caused or had the potential to cause harm to the customers of the industry or the shipping public:

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- Throughout the year, over 725 complaints requiring dispute resolution services were received with regard to household goods and cargo shipments. Thirty-four new investigations were initiated on alleged harm to the public as a result of Shipping Act violations. Penalties of \$843,000 were collected as a result of settlements or findings of violations of the Shipping Act. These collections were deposited in the U.S. Treasury general fund account.
- In fiscal year 2009, a number of licensed Non-Vessel-Operating Common Carriers (NVOCCs) went out of business as an apparent result of the economic downturn. CADRS and the ARs assisted these NVOCCs and their shipper customers as they closed out businesses to ensure that customers received their shipments.
- Through mediation, the FMC helped resolve a dispute among an ocean carrier, NVOCCs, a shipper and a U.S. port where oil leakage from containers posed an environmental hazard. CADRS helped the parties reach an agreement to fund and perform environmentally safe cleaning and removal of the containers.
- Through its enforcement authorities, the Commission initiated actions to address and seek compliance for market-distorting activities such as various forms of secret rebates and absorptions, misdescriptions of commodities and misdeclarations of measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded NVOCCs and joint carrier activities outside the authority of existing agreements or pursuant to unfiled agreements. Particular emphasis was placed on industry service contracting activities to ensure fair trading conditions and protection of the public.
- The agency continued investigations into the operations of unlicensed, unbonded OTIs that provide transportation of household goods and personal effects, including enforcement of the prohibition on vessel-operating common carriers (VOCCs) and licensed NVOCCs providing service to such unlawful operators.
- The Commission worked closely with other Federal and local agencies on matters of port and supply chain security at most major container ports in the U.S.
- The FMC denied a petition in Docket No. 08-07, *Global Link Logistics, Inc. – Emergency Petition for Declaratory Order, Rulemaking or other Appropriate Relief in Voluntary Disclosure Investigation*. Petitioners asked the Commission to issue a Declaratory Order, initiate a rulemaking or grant other appropriate relief to confirm that a common industry practice involving domestic inland movements is not a violation of Section 10(a)(1) of the Shipping Act. On June 15, 2009, the Commission issued an Order denying the Petition on procedural grounds.

- The FMC terminated the proposed rulemaking in Docket No. 02-15, *Passenger Vessel Financial Responsibility*. This proceeding was instituted in October 2002, and would have amended the Commission's proof of passenger vessel financial responsibility regulations. The record in this proceeding had become stale, therefore, the Commission determined that the record amassed in prior years was no longer legally sufficient to sustain contemporary efforts to either adopt or propose new alternatives to the Commission's financial responsibility requirements for PVOs. On October 28, 2009, the Commission issued an Order terminating the proposed rule.

### **Licensing Compliance and Financial Responsibility**

The FMC contributes to the integrity and security of the nation's supply chain and transportation system by identifying unlicensed operations and licensing only those OTIs with appropriate character and financial responsibility, and ensuring financial responsibility of cruise vessel operators so that in the event of nonperformance, passengers do not forfeit deposits made to the cruise lines.

The application fee for an OTI license was significantly reduced for use of the electronic online application form. Approximately 90% of all incoming OTI applications were received through the electronic system in fiscal year 2009.

- In fiscal year 2009, the Bureau initiated revisions to the electronic filing of the automated Form FMC-18, *Application for an Ocean Transportation Intermediary License*, to permit filers to complete an OTI application online, scan and attach required documents, and submit the application electronically. The filing system would incorporate significant security features for the purpose of protecting applicant data.
- Over 750 new and amended OTI license applications were received in fiscal year 2009, with nearly 500 requests from new applicants. During the year, 414 OTI licenses were issued to qualified businesses. At the end of the fiscal year, more than 4,300 ocean freight forwarders (OFFs) and NVOCCs, both domestic and foreign, held active OTI licenses.
- The FMC, both through formal presentations and informal community outreach, educated unlicensed and licensed OTIs in various port communities on licensing requirements and responsibilities.
- At the close of fiscal year 2009, the Commission's PVO program encompassed 203 vessels and 43 operators. Financial responsibility coverage for all operators exceeded \$319 million for nonperformance of voyages and \$637 million for casualty. By regulation, financial data relating to unearned passenger revenue (UPR) is confidential.

- During fiscal year 2009, staff completed two on-site reviews of cruise lines that established financial responsibility with surety bonds and guaranty. The on-site reviews confirmed the PVO's compliance with reporting requirements relating to UPR and the appropriate amount of coverage required to ensure adequate financial responsibility.
- The Commission remanded a proceeding to the ALJ in Docket No. 06-06 - *EuroUSA Shipping, Inc., Tober Group, Inc.(Tober) and Container Innovations, Inc. – Possible Violations of Section 10 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R. § 515.27*. This proceeding was instituted by Order of Investigation and Hearing served May 11, 2006, to determine whether respondents violated section 10(b) (11) of the Shipping Act and the Commission's regulations at 46 CFR 515.27, by knowingly and willfully accepting cargo from or transporting cargo for the account of an OTI that did not have a tariff and a bond as required by sections 8 and 19 of the Act. The ALJ granted Tober's Motion for Summary Judgment on June 12, 2008. The Commission granted BOE's appeal of the summary judgment and remanded the case to the ALJ on December 18, 2008. With regard to Tober, the ALJ issued an Initial Decision in which he determined that it did not violate the Shipping Act. With regard to Container Innovations, Inc. (CII), the ALJ issued an Initial Decision in which he determined violations of the Shipping Act and ordered CII to pay a civil penalty. These decisions are pending the possible filing of exceptions to the Initial Decisions. With regard to EuroUSA Shipping, Inc., the ALJ approved the settlement agreement with BOE. This order was made administratively final on November 12, 2009.
- In fiscal year 2009, the compliance audit program continued as a major focus of the BOE. This program, conducted from headquarters primarily by mail and telephone, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also reviews entities holding themselves out as VOCCs, but with no indication of actual vessel operations.

### **Public Information**

- The FMC makes information available daily concerning its work and how it regulates the shipping industry and is focused on increasing accessibility to the public and transparency in its operations.
- The Commission met publicly on a regular basis in fiscal year 2009 for discussion and action on industry and administrative matters.
- The FMC now provides carrier service contract statistics through its website. This improvement provides for greater public awareness and real-time access to the quantity and type of filings, although the filings themselves are confidential by statute.



## Stewardship of Resources

### Technology

The Commission strives to use new information technology (IT) as means of improving both agency business processes and the public's ability to conduct business with the agency. In fiscal year 2009, the agency, in considering the many recently introduced government-wide initiatives, identified new technology which will be incorporated into its business processes. This technology investment will lead to a more efficient and transparent government.

- The OIT worked with other agency components to ensure the continuing operation of electronically available forms for public use, such as the FMC-18, *Application for an Ocean Transportation Intermediary License*, and to plan for future improvements and enhancements to help the public communicate more expeditiously with the agency.
- To improve communication of information at the agency's public hearings, the headquarters Hearing Room was upgraded and outfitted with new communication technology.
- To enable the agency to continue to serve the public fully in the event of an emergency, OIT upgraded the Continuity of Operations (COOP) systems located in Germantown, MD.
- With the participation of the program bureaus, OIT continued a study of current databases to begin the process of creating an enterprise-wide architecture of the agency's databases.

### Resources

Strategic management of human resources, property management, financial and procurement practices and other vital support activities is essential to meet the agency's regulatory and programmatic goals. In fiscal year 2009, the FMC strove to make the most productive use of the resources at hand and was commended for those efforts.

- The Commission, through its performance and budget processes, linked planning, financial management, and performance.
- The FMC received the *2009 Most Improved Small Federal Agency Award*, presented at a ceremony hosted by the Partnership for Public Service to recognize the *2009 Best Places to Work in the Federal Government*. The agency ranked first among 31 other small agencies in the Best-in-Class scored areas of *Strategic Management*, *Pay and Benefits*, *Performance Based Rewards and Advancement*, *Training and Development*, *Support for Diversity*, ranked second in the areas of *Teamwork and Effective Leadership*, and ranked third in *Family Friendly Culture and Benefits* and *Work/Life Balance*.

- The agency received an unqualified opinion in its FY 2009 Financial Statement Audit. The FMC prepared the Federal Activities Inventory Reform Act report, and the Performance Accountability Report (PAR) which included the Management's Discussion and Analysis (MD&A) report and the Federal Managers Financial Integrity Act report (FMFIA). The staff continued to update internal Commission issuances and Standard Operating Procedures for a variety of programs and activities, and guided Commission efforts to comply with the Government Paperwork Elimination Act (GPEA) and Federal Information Security Management Act (FISMA).
- The Commission finalized its Human Capital, Workforce Accountability, and Succession Management Plans in accordance with the Office of Personnel Management's (OPM) Human Capital Assessment and Accountability Framework.

### **Activities Planned for Fiscal Years 2010 and 2011**

#### **Efficiency and Competition**

##### **Efficiency and Competition in the Trades**

- Staff will complete major sections of the Commission's impact study on the repeal of the European Union's block exemption for liner shipping conferences, especially those sections that focus on the first full year after the repeal.
- Developments on the European Commission's (EC) review of its block exemption regulations for consortia agreements between carriers [Commission Regulation No. 823/2000] will be closely monitored.
- Staff will improve the Commission's agreements monitoring program, designed to address such supply-chain and operational issues as port congestion, security, air pollution and environmental concerns that affect local communities and the industry.

#### **Protecting the Shipping Public**

##### **The Shipping Public**

- Through various programs, staff will build upon the agency's outreach efforts and raise public awareness of its regulations, consumer protections and services through public presentations and use of various media.
- Staff will emphasize the OTI monitoring and audit programs. The enforcement and monitoring activities will include focusing on the unlawful operations of household goods carriers - both licensed and unlicensed - which have increasingly caused economic harm to individual consumers, as well as competitive injury to those carriers operating lawfully.

- The Commission will use investigative, liaison and outreach functions to continue to increase protection of the shipping public from unlawful practices. Additionally, the Commission will continue to pursue harmful, market-distorting, fraudulent, and anticompetitive practices and to monitor U.S. foreign trades. In particular, staff will continue to pursue initiatives aimed at VOCCs and NVOCCs engaged in unfair service contracting practices, specifically those which permit entities to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws.
- Agency policies and regulations will be reviewed to ensure alignment between the FMC and the industry, and the state of the trade.
- Staff will continue to review the operations of MTOs and monitor MTO-filed agreements to ensure compliance with the Shipping Act and the Commission's regulations.
- The Commission will expand awareness of its Alternative Dispute Resolution (ADR) program to assist in resolving disputes and shipping problems in the U.S. ocean shipping commerce.
- The Commission will review its Rules of Practice and Procedure, looking to ensure both clarity and ease of use for parties and practitioners in proceedings before the Commission. Emphasis will be placed on evaluating the Commission's procedures against current Federal Rules of Civil Procedure and updating procedures where appropriate.

### **Licensing Compliance and Financial Responsibility**

- The Commission will continue to review its regulations and trade conditions in order to ensure that the PVO program meets the needs of the cruising public. Staff intends to perform an on-site review of a cruise line's unearned passenger revenue each year and conduct quarterly reviews of the PVO monitoring files to ensure cruise line operators provide timely and accurate information with respect to the submission of reports and records.
- Staff will continue to examine issues that were raised in Docket No. 02-15 and continue to present new options to the Commission for consideration to ensure that PVOs' financial responsibility requirements for nonperformance are providing appropriate protection for the public. BCL will continue research into the various means of ensuring adequate coverage and prepare additional mechanisms to seek input from the general public on the adequacy of current regulations.
- Staff will redesign the OTI list on the Commission's website to increase accessibility to information, facilitate public search capability, and make it more interactive for users.

- Staff will continue efforts to further develop and maintain additional developments to the current electronic Form FMC-18 System. In conjunction with the agency's Enterprise Content Management Project, the Bureau will work with OIT to explore automated business processing of the OTI applications submitted through the electronic FMC-18 System.
- Current rules and regulations regarding OTI licensing requirements will be reviewed to ensure continued protection of the shipping public in light of changed industry circumstances.
- Staff will continue to participate in the government-wide process of coordinating available data to improve identification of entities providing and using maritime transportation services.

### **Public Information**

- The Commission will continue to promote transparency and accountability by evaluating, developing and implementing improvements to its website to provide additional information to the public in a more user-friendly format. An upgraded platform will support plans to enhance website graphics, include more social networking/communications capabilities, and improve public visibility of the Commission's website.
- Staff plans to develop an electronic database for the Commission's historical Informal Docket proceedings to provide a more efficient tool for attorneys and judges in researching case precedent and will initially be available for staff attorneys, Settlement Officers, and the OALJ.
- The OGC will continue to take the lead in providing assistance and technical advice to Congress regarding issues for possible legislative consideration. The Office may also recommend legislative amendments as necessary to ensure uniformity with other Federal initiatives and to allow for the efficient and secure flow of ocean transportation.

### **Stewardship of Resources**

#### **Technology**

- The Commission will continue to work towards full compliance with FISMA requirements.
- To assist the public in the payment process, the FMC will incorporate electronic payments through the Pay.gov initiative.
- Technology enhancements in the Commission's Hearing Room will improve public information and communications at public hearings and Commission meetings, thus helping achieve the President's Open Government goals.
- The agency will complete implementation of the Enterprise Content Management Project procured in fiscal year 2009.

## Resources

- Agency managers will work closely with the OHR on Federal hiring reform towards the President's goal of building a more transparent, high-performance government.
- The agency will implement and evaluate its Human Capital, Workforce, Succession Management and Accountability Plans and associated metrics to assess progress in meeting strategic and performance goals and to determine necessary modifications.

## **FMC Mission**

**To foster a fair, efficient and reliable international  
ocean transportation system and to protect the public  
from unfair and deceptive practices**

**Federal Maritime Commission**

FTE and Positions by Program FY 2009 - FY 2011								
Program/Office	FY 2009 Actual		FY 2010 Estimate		FY 2011 Request		Percent Difference From FY 10	
	FTE	Positions*	FTE	Positions*	FTE	Positions*	FTE	Positions*
<b>Headquarters</b>	<b>111.48</b>	<b>116.00</b>	<b>120.72</b>	<b>123.00</b>	<b>124.20</b>	<b>124.00</b>	<b>2.88%</b>	<b>0.81%</b>
<b>Area Representatives</b>	<b>8.08</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>	<b>0.00%</b>	<b>0.00%</b>
<b>Agency Total</b>	<b>119.56</b>	<b>124.00</b>	<b>128.72</b>	<b>131.00</b>	<b>132.20</b>	<b>132.00</b>	<b>2.70%</b>	<b>0.76%</b>
<b>Formal Proceedings</b>								
Office of the Chairman	0.62	2.00	2.98	3.00	3.00	3.00	0.67%	0.00%
Office of the Commissioners	4.36	4.00	6.97	8.00	8.00	8.00	14.78%	0.00%
Office of the Secretary	6.03	7.00	6.56	7.00	7.00	7.00	6.71%	0.00%
Consumer Affairs and Dispute Resolution Services	7.60	8.00	5.79	7.00	6.80	7.00	17.44%	0.00%
Library	1.00	1.00	1.00	1.00	1.00	1.00	0.00%	0.00%
Office of the General Counsel	9.65	9.00	9.97	10.00	10.00	10.00	0.30%	0.00%
Office of Administrative Law Judges	2.00	2.00	2.78	3.00	3.00	3.00	7.91%	0.00%
<b>Formal Proceedings Total</b>	<b>31.26</b>	<b>33.00</b>	<b>36.05</b>	<b>39.00</b>	<b>38.80</b>	<b>39.00</b>	<b>7.63%</b>	<b>0.00%</b>
<b>Office of Equal Employment Opportunity</b>	<b>0.73</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>0.00%</b>	<b>0.00%</b>
<b>Office of Inspector General</b>	<b>2.50</b>	<b>2.00</b>	<b>2.97</b>	<b>3.00</b>	<b>3.00</b>	<b>3.00</b>	<b>1.01%</b>	<b>0.00%</b>
<b>Operations</b>								
Office of the Director	3.77	4.00	4.00	4.00	4.00	4.00	0.00%	0.00%
Area Representatives	8.08	8.00	8.00	8.00	8.00	8.00	0.00%	0.00%
<i>Bureau of Trade Analysis</i>								
Office of the Director	4.38	4.00	4.00	4.00	4.00	4.00	0.00%	0.00%
Office of Service Contracts and Tariffs	5.27	6.00	6.00	6.00	6.00	6.00	0.00%	0.00%
Office of Economics & Competition Analysis	6.00	6.00	6.00	6.00	6.00	6.00	0.00%	0.00%
Office of Agreements	4.00	4.00	4.00	4.00	4.00	4.00	0.00%	0.00%
<i>Bureau of Certification &amp; Licensing</i>								
Office of the Director	4.20	4.00	4.00	4.00	4.00	4.00	0.00%	0.00%
Office of Passenger Vessels and Information Processing	5.17	6.00	6.00	6.00	6.00	6.00	0.00%	0.00%
Office of Transportation Intermediaries	7.75	9.00	9.00	9.00	9.00	9.00	0.00%	0.00%
<i>Bureau of Enforcement</i>								
<b>Operations Total</b>	<b>60.47</b>	<b>63.00</b>	<b>63.00</b>	<b>63.00</b>	<b>63.00</b>	<b>63.00</b>	<b>0.00%</b>	<b>0.00%</b>
<b>Administration</b>								
Office of the Director	3.00	3.00	3.93	4.00	4.00	4.00	1.78%	0.00%
Office of Information Technology	6.98	7.00	7.00	7.00	8.00	8.00	14.29%	14.29%
Office of Human Resources**	4.42	5.00	4.77	4.00	4.40	4.00	-7.76%	0.00%
Office of Financial Management	5.00	5.00	5.00	5.00	5.00	5.00	0.00%	0.00%
Office of Management Services	5.20	5.00	5.00	5.00	5.00	5.00	0.00%	0.00%
<b>Administration Total</b>	<b>24.60</b>	<b>25.00</b>	<b>25.70</b>	<b>25.00</b>	<b>26.40</b>	<b>26.00</b>	<b>2.72%</b>	<b>4.00%</b>
<b>Total FTEs and Positions</b>	<b>119.56</b>	<b>124.00</b>	<b>128.72</b>	<b>131.00</b>	<b>132.20</b>	<b>132.00</b>	<b>2.70%</b>	<b>0.76%</b>

\* Denotes positions on September 30.

\*\* Denotes FTEs associated with a Summer Hire Program

**Federal Maritime Commission**

<b>Obligations by Object Class</b>			
<b>FY 2009 - FY 2011</b>			
<b>Category</b>	<b>FY 2009 Actual</b>	<b>FY 2010 Enacted</b>	<b>FY 2011 Estimate</b>
<b>Personnel Compensation &amp; Benefits</b>			
(11.9) Full-time Permanent	\$ 12,202,123.45	\$ 13,688,000.00	\$ 14,804,000.00
(11.3) Other than Full-time Permanent	\$ 106,335.37	\$ 78,000.00	\$ 85,000.00
(11.7) Awards	\$ 299,233.00	\$ 3,000.00	\$ -
(12.1) Civillian Personnel Benefits	\$ 2,806,947.28	\$ 3,336,000.00	\$ 3,626,000.00
<b>Total Personnel Compensation &amp; Benefits</b>	<b>\$ 15,414,639.10</b>	<b>\$ 17,105,000.00</b>	<b>\$ 18,515,000.00</b>
<b>Travel and Administrative Expenses</b>			
(21.0) Travel and Transportation of Personnel	\$ 212,208.86	\$ 283,000.00	\$ 283,000.00
(22.0) Transportation of Things (FEDEX)	\$ 17,980.00	\$ 18,000.00	\$ 25,000.00
<b>Rent, Communications &amp; Utilities</b>			
(23.1) Rental Payments to GSA	\$ 3,129,943.08	\$ 3,260,000.00	\$ 3,276,000.00
(23.2) Rental Payments to Others	\$ 26,364.38	\$ 28,000.00	\$ 30,000.00
(2.35) Local & Long Distance, Cellular & FTS Telephones	\$ 185,585.33	\$ 165,000.00	\$ 155,000.00
(28.3) Postage	\$ 8,182.90	\$ 18,000.00	\$ 16,000.00
(24.0) Printing	\$ 94,535.58	\$ 138,000.00	\$ 163,000.00
(25.1) Consulting	\$ 142,508.22	\$ 183,000.00	\$ 186,000.00
(25.2) Purchase of Goods and Services from Commercial Accounts	\$ 919,364.50	\$ 1,146,000.00	\$ 960,000.00
(25.3) Purchase of Goods and Services from Government Accounts	\$ 1,291,152.98	\$ 1,302,000.00	\$ 1,440,000.00
(25.7) Equipment Maintenance	\$ 120,361.07	\$ 102,000.00	\$ 90,000.00
(26.0) Supplies and Materials	\$ 235,645.03	\$ 265,000.00	\$ 255,000.00
(31.0) Furniture & Equipment (includes IT hardware and software)	\$ 935,244.75	\$ 122,000.00	\$ 104,000.00
<b>Total Travel and Administrative Expenses</b>	<b>\$ 7,319,076.68</b>	<b>\$ 7,030,000.00</b>	<b>\$ 6,983,000.00</b>
<b>Obligations/Spending Authority</b>	<b>\$ 22,733,715.78</b>	<b>\$ 24,135,000.00</b>	<b>\$ 25,498,000.00</b>



<b>Average Salary and Grade</b> (Excludes Benefit Costs) FY 2009 - FY 2011			
<b>Category</b>	<b>FY 2009 Actual</b>	<b>FY 2010 Estimate</b>	<b>FY 2011 Request</b>
<b>Average Salary</b>			
Full-time Permanent GS	\$9,838,186.56	\$10,743,189.34	\$11,454,647.29
Full-time Permanent GM	\$413,330.48	\$135,994.62	\$139,643.19
Part-time	\$106,335.37	\$78,270.24	\$85,378.54
Other (Schedule-C, ALJs, SES, EX)	\$1,844,271.04	\$2,746,177.16	\$3,123,952.49
<b>Overall Average Salary</b>	<b>\$98,404.22</b>	<b>\$104,607.87</b>	<b>\$112,148.65</b>
<b>Average Grade (Includes Part-Time Positions)</b>			
General Schedule			
GS-04	1.00	0.00	0.00
GS-05	2.00	1.00	1.00
GS-06	0.00	1.00	0.00
GS-07	4.00	4.00	5.00
GS-08	5.00	5.00	4.00
GS-09	1.00	0.00	1.00
GS-10	0.00	0.00	0.00
GS-11	7.00	2.00	2.00
GS-12	21.00	26.00	26.00
GS-13	27.00	29.00	28.00
GS-14	28.00	24.00	26.00
GS-15	15.00	23.00	23.00
<b>Average GS Grade</b>	<b>12.50</b>	<b>12.79</b>	<b>12.83</b>
GM-14	2.00	1.00	1.00
GM-15	1.00	0.00	0.00
<b>Average GM Grade</b>	<b>14.33</b>	<b>14.00</b>	<b>14.00</b>
ES	6.00	8.00	8.00
<b>Average ES Grade</b>	<b>3.00</b>	<b>3.00</b>	<b>3.00</b>
AL-3/E	1.00	2.00	2.00
<b>Average AL Grade</b>	<b>3.00</b>	<b>3.00</b>	<b>3.00</b>
Presidential Appointees	3.00	5.00	5.00
<b>Average EX Grades</b>	<b>EX</b>	<b>EX</b>	<b>EX</b>
<b>Total Positions</b>	<b>124.00</b>	<b>131.00</b>	<b>132.00</b>

Federal Maritime Commission

Federal Maritime Commission Request by Strategic Goal and Program FY 2011								
Program/Office	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request			FY 2011 Request	Changes Over FY 2009 Actual	Changes Over FY 2010 Enacted
			Strategic Goal # 1 Maintain an efficient and competitive international ocean transportation system	Strategic Goal # 2 Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Strategic Goal # 3 Advance agency objectives through high-performance leadership and efficient stewardship of resources			
<b>Formal Proceedings</b>								
Office of the Chairman	\$128,387.19	\$668,974.76	\$98,276.93	\$390,822.22	\$196,553.87	\$685,653.02	\$557,265.83	\$16,678.26
Office of the Commissioners	\$1,100,141.05	\$1,671,573.71	\$277,769.20	\$1,112,049.71	\$555,538.40	\$1,945,357.31	\$845,216.26	\$273,783.60
Office of the Secretary	\$1,031,198.02	\$1,097,993.90	\$181,546.04	\$937,123.35	\$91,637.52	\$1,210,306.91	\$179,108.89	\$112,313.01
CADRS	\$1,295,477.98	\$973,292.00	\$0.00	\$1,176,859.39	\$35,662.41	\$1,212,521.80	(\$82,956.18)	\$239,229.80
Library	\$354,691.59	\$390,101.98	\$47,775.94	\$342,394.20	\$7,962.66	\$398,132.80	\$43,441.21	\$8,030.82
Office of the General Counsel	\$1,800,343.83	\$1,805,822.69	\$520,174.44	\$990,989.26	\$387,283.16	\$1,898,446.86	\$98,103.03	\$92,624.17
Ethics	\$0.00	\$3,466.86	\$1,235.73	\$1,235.73	\$1,235.73	\$3,707.19	\$3,707.19	\$240.33
Office of Administrative Law Judges	\$428,089.87	\$593,570.42	\$81,807.40	\$325,327.11	\$163,614.80	\$570,749.31	\$142,659.44	(\$22,821.11)
<b>Formal Proceedings Total</b>	<b>\$6,138,329.53</b>	<b>\$7,204,796.32</b>	<b>\$1,208,585.68</b>	<b>\$5,276,800.97</b>	<b>\$1,439,488.55</b>	<b>\$7,924,875.20</b>	<b>\$1,786,545.67</b>	<b>\$720,078.88</b>
<b>Office of Equal Employment Opportunity</b>	<b>\$151,451.41</b>	<b>\$226,278.84</b>	<b>\$31,945.90</b>	<b>\$130,065.45</b>	<b>\$66,173.65</b>	<b>\$228,185.00</b>	<b>\$76,733.59</b>	<b>\$1,906.16</b>
<b>Office of the Inspector General</b>	<b>\$570,814.98</b>	<b>\$762,729.05</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$779,843.69</b>	<b>\$779,843.69</b>	<b>\$209,028.71</b>	<b>\$17,114.64</b>
<b>Operations</b>								
Office of the Director	\$905,301.95	\$999,190.65	\$311,969.66	\$558,945.65	\$168,983.57	\$1,039,898.88	\$134,596.93	\$40,708.23
Area Representatives	\$1,672,103.10	\$1,644,152.52	\$150,257.48	\$1,502,574.78	\$16,695.28	\$1,669,527.54	(\$2,575.56)	\$25,375.02
Bureau of Trade Analysis	\$3,080,466.82	\$3,349,478.27	\$1,872,780.73	\$1,129,103.63	\$439,722.85	\$3,441,607.21	\$361,140.39	\$92,128.94
Bureau of Certification & Licensing	\$2,558,455.71	\$2,757,497.88	\$0.00	\$2,490,515.04	\$459,039.22	\$2,949,554.26	\$391,098.55	\$192,056.38
Bureau of Enforcement	\$2,106,894.49	\$2,296,294.47	\$405,957.13	\$1,838,517.41	\$97,585.85	\$2,342,060.39	\$235,165.90	\$45,765.92
<b>Operations Total</b>	<b>\$10,323,222.07</b>	<b>\$11,046,613.79</b>	<b>\$2,740,965.00</b>	<b>\$7,519,656.51</b>	<b>\$1,182,026.77</b>	<b>\$11,442,648.28</b>	<b>\$1,119,426.21</b>	<b>\$396,034.49</b>
<b>Administration</b>								
Office of the Director	\$504,319.03	\$761,311.39	\$123,713.35	\$206,188.91	\$494,853.38	\$824,755.64	\$320,436.61	\$63,444.25
Office of Information Technology	\$3,011,968.41	\$1,987,322.91	\$312,946.14	\$521,576.90	\$1,251,784.56	\$2,086,307.60	(\$925,660.81)	\$98,984.69
Office of Human Resources	\$602,737.50	\$692,246.41	\$105,673.52	\$196,937.00	\$401,879.57	\$704,490.09	\$101,752.59	\$12,243.68
Office of Financial Management	\$650,178.02	\$688,196.31	\$101,602.27	\$319,321.45	\$304,806.82	\$725,730.54	\$75,552.52	\$37,534.23
Office of Management Services	\$780,694.83	\$765,504.98	\$117,174.59	\$195,290.99	\$468,698.38	\$781,163.96	\$469.13	\$15,658.98
<b>Administration Total</b>	<b>\$5,549,897.79</b>	<b>\$4,894,582.00</b>	<b>\$761,109.87</b>	<b>\$1,439,315.25</b>	<b>\$2,922,022.71</b>	<b>\$5,122,447.83</b>	<b>(\$427,449.96)</b>	<b>\$227,865.83</b>
<b>Totals</b>	<b>\$22,733,715.78</b>	<b>\$24,135,000.00</b>	<b>\$4,742,606.45</b>	<b>\$14,365,838.18</b>	<b>\$6,389,555.37</b>	<b>\$25,498,000.00</b>	<b>\$2,764,284.22</b>	<b>\$1,363,000.00</b>

<b>Summary of Changes</b>			
<b>FY 2010 - FY 2011</b>			
<b>Category</b>	<b>FY 2010 Enacted</b>	<b>FY 2011 Request</b>	<b>Net Change</b>
Spending Authority	\$24,135,000.00	\$25,498,000.00	\$1,363,000.00
Full-time Equivalents *	128.72	132.20	3.48
Positions *	131.00	132.00	1.00
<b>Explanation of Changes :</b>			<b>Amount</b>
Annualization of FY 2010 salary increases			\$684,000.00
Salary for new position			\$89,000.00
2011 estimated pay raise (2.1%)			\$230,000.00
2011 promotions and WIGs for eligible staff			\$97,000.00
Costs associated with employee benefits			\$290,000.00
Cash awards			(\$3,000.00)
Part-Time Employees			\$23,000.00
<b>Total Personnel Compensation and Benefits</b>			<b>\$1,410,000.00</b>
<b>Travel and Administrative Expenses</b>			
(21.1) Travel and Transportation of Personnel			\$0.00
(22.0) Transportation of Things			\$7,000.00
<b>Rent, Communications &amp; Utilities</b>			
(23.1) Rental Payments to GSA			\$16,000.00
(23.2) Rental Payments to Others			\$2,000.00
(23.5) Local & Long Distance, Cellular & FTS Telephones			(\$10,000.00)
(28.3) Postage			(\$2,000.00)
(24.0) Printing			\$25,000.00
(25.1) Consulting			\$3,000.00
(25.2) Purchase of Goods and Services From Commercial Accounts			(\$186,000.00)
(25.3) Purchase of Goods & Services from Government Accounts			\$138,000.00
(25.7) Equipment Maintenance			(\$12,000.00)
(26.0) Supplies and Materials			(\$10,000.00)
(31.0) Furniture & Equipment (Includes IT hardware and software)			(\$18,000.00)
<b>Total Travel and Administrative Expenses</b>			<b>(\$47,000.00)</b>
<b>Total Changes</b>			<b>\$1,363,000.00</b>

\* Includes Part-Time employees

## Appropriation Language

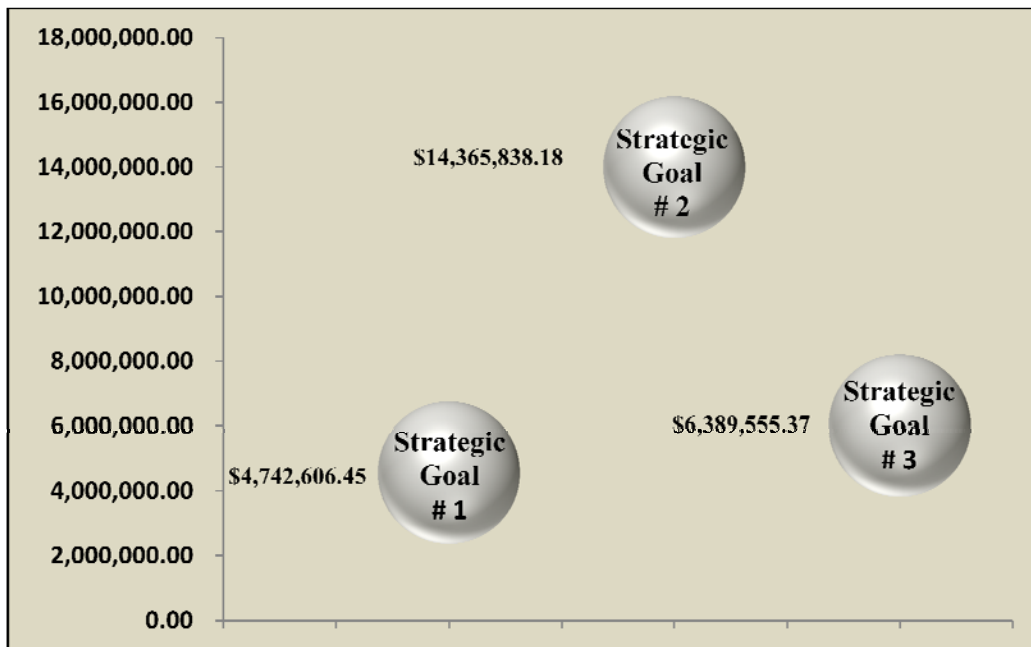
For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 307), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902, [\$24,135,000]:^Provided, That not to exceed \$2,000 shall be available for official reception and \$25,498,000 representation expenses (Consolidated Appropriations Act, 2010).

## FMC Fiscal Year 2011 Budget Request by Strategic Goal

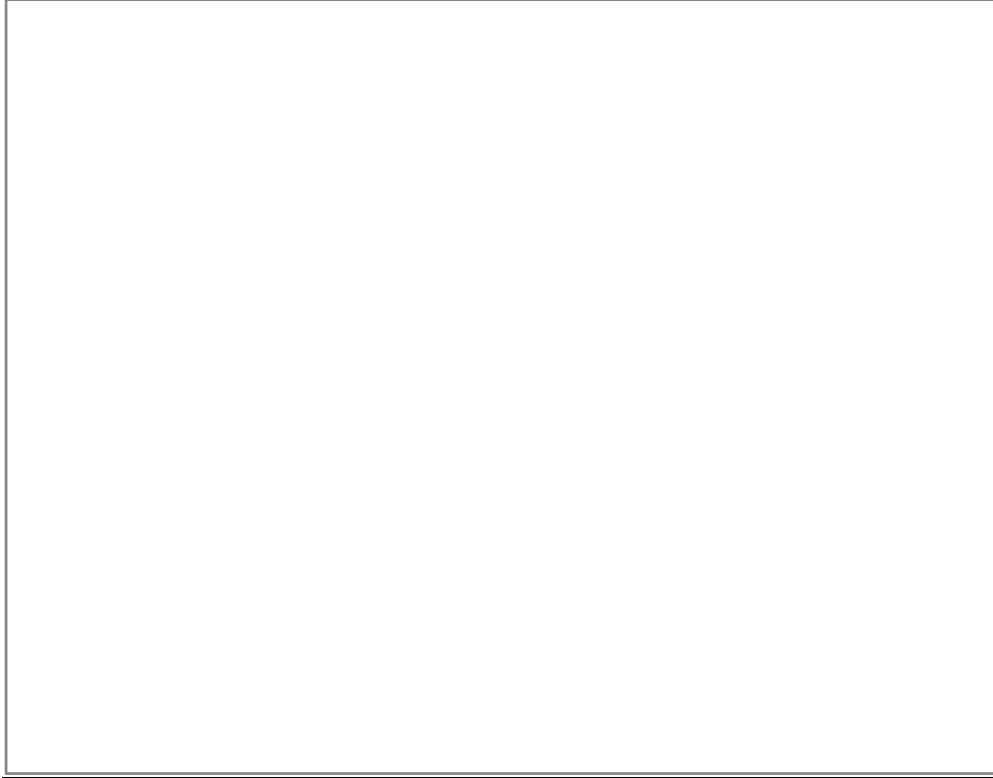
The mission of the Federal Maritime Commission is to foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices. The FMC is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States pursuant to the provisions of the Shipping Act. The FMC has oversight of certain commercial activities of ocean common carriers, MTOs, ports, and OTIs operating in the U.S. foreign commerce. These activities include the filing of agreements, licensing of qualified OTIs, and overseeing the financial responsibility of PVOs. The FMC's oversight responsibilities have a direct impact on the financial well-being of every American who purchases goods which arrive in the United States through our ports.

The FMC's budget is focused on achieving the goals and objectives identified in its strategic plan. The FMC's fiscal year 2011 budget request totals \$25,498,000 and funds 132.2 full-time equivalents (FTEs). This is an increase of \$1,363,000 over the agency's fiscal year 2010 appropriation level.

### FY 2011 Request by Strategic Goal



- Strategic Goal # 1: Maintain an efficient and competitive international ocean transportation system
- Strategic Goal # 2: Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes
- Strategic Goal # 3: Advance agency objectives through high-performance leadership and efficient stewardship of resources



Relationship of Obligations to Outlays			
FY 2009 - FY 2011			
Program	FY 2009 Actuals	FY 2010 Enacted	FY 2011 Requested
Formal Proceedings	\$6,138,329.53	\$7,204,796.32	\$7,924,875.20
Equal Employment Opportunity	\$151,451.41	\$226,278.84	\$228,185.00
Inspector General	\$570,814.98	\$762,729.05	\$779,843.69
Operations	\$10,323,222.07	\$11,046,613.79	\$11,442,648.28
Administration	\$5,549,897.79	\$4,894,582.00	\$5,122,447.83
Unobligated	\$66,284.22	\$0.00	\$0.00
<b>Budget Authority</b>	<b>\$22,800,000.00</b>	<b>\$24,135,000.00</b>	<b>\$25,498,000.00</b>
<b>Obligations</b>	<b>\$22,733,715.78</b>	<b>\$24,064,834.66</b>	<b>\$25,423,872.15</b>
<b>Outlays*</b>	<b>\$19,556,373.50</b>	<b>\$20,761,809.42</b>	<b>\$21,934,311.85</b>
<b>Outlay Rate (Obligation to Outlay)**</b>	<b>86.02%</b>	<b>86.02%</b>	<b>86.02%</b>
<b>Obligation Rate</b>	<b>99.71%</b>	<b>99.71%</b>	<b>99.71%</b>
<b>Gross Outlays for FY 2009</b>			
Total outlays for fiscal year 2004 disbursed in fiscal year 2009	(\$688.24)		
Total outlays for fiscal year 2005 disbursed in fiscal year 2009	\$0.00		
Total outlays for fiscal year 2006 disbursed in fiscal year 2009	\$8,617.00		
Total outlays for fiscal year 2007 disbursed in fiscal year 2009	\$52,012.34		
Total outlays for fiscal year 2008 disbursed in fiscal year 2009	\$2,434,430.43		
Total outlays for fiscal year 2009	\$19,556,373.50		
<b>Outlays</b>	<b>\$22,050,745.03</b>		
* Represents Outlays for FY 2009 only			
** Represents the percentage of FY 2009 obligations that were disbursed during FY 2009			

**Formal Proceedings Program**

The Offices of the Commissioners, Secretary, General Counsel and Administrative Law Judges comprise the Formal Proceedings Program. Within this program, the Commission conducts hearings, renders formal decisions in the disposition of docketed cases, compiles and maintains all official documents arising from proceedings, and conducts external representation activities before the Congress, courts of law, and other agencies.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Chairman</b>	0.62	2.98	3.00
	<b>Commissioners</b>	4.36	6.97	8.00
	<b>Secretary</b>	6.03	6.56	7.00
	<b>CADRS</b>	7.60	5.79	6.80
	<b>Library</b>	1.00	1.00	1.00
	<b>General Counsel</b>	9.65	9.97	10.00
	<b>Administrative Law Judges</b>	<u>2.00</u>	<u>2.78</u>	<u>3.00</u>
	<b>Total FTEs</b>	<b>31.26</b>	<b>36.05</b>	<b>38.80</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$4,415,897.87	\$5,207,776.92	\$5,920,407.19
	<b>Non-Personnel Expenses</b>	<u>\$1,722,431.66</u>	<u>\$1,997,019.40</u>	<u>\$2,004,468.01</u>
	<b>Total Cost</b>	<b>\$6,138,329.53</b>	<b>\$7,204,796.32</b>	<b>\$7,924,875.20</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>5.91</b>	<b>26.09</b>	<b>6.79</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$1,208,585.68</b>	<b>\$5,276,800.97</b>	<b>\$1,439,488.55</b>		



**Office of the Chairman**

The Chairman of the Commission is designated by the President of the United States and serves as the agency's Chief Executive and Administrative Officer. As a result, the Chairman has exclusive authority over agency personnel matters, organization and supervision, distribution of business and use of funds for administrative purposes. During fiscal year 2009, there was a vacancy in the Commission's chairmanship until President Obama designated Commissioner Joseph E. Brennan as Acting Chairman in May 2009. Subsequently, on September 11, 2009, the President designated Commissioner Richard A. Lidinsky, Jr. as Chairman. Throughout the fiscal year, the Commission continued its regular meeting schedule, typically meeting on the second and fourth weeks of the month to discuss and act upon industry and administrative matters before it in both public and closed sessions.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Office of the Chairman				
		FY 2009	FY 2010	FY 2011
		Actual	Enacted	Request
<b>FTE:</b>	<b>Chairman</b>	0.62	2.98	3.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$92,846.44	\$506,783.47	\$526,381.22
	<b>Non-Personnel Expenses</b>	<u>\$35,540.75</u>	<u>\$162,191.29</u>	<u>\$159,271.80</u>
	<b>Total Cost</b>	<b>\$128,387.19</b>	<b>\$668,974.76</b>	<b>\$685,653.02</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.43</b>	<b>1.71</b>	<b>0.86</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$98,276.93</b>	<b>\$390,822.22</b>	<b>\$196,553.87</b>		

**Office of the Commissioners**

The Chairman and the other four Commissioners are responsible for making decisions and determinations in the disposition of docketed cases, and ensuring the efficient, equitable and expeditious resolution of all matters arising under statutes administered by the Commission. The Commission promulgates rules and regulations and issues decisions which interpret, enforce and assure compliance with the 1984 Act, as amended by OSRA, the 1920 Act, FSPA, and P. L. 89-777.

During the fiscal year ending September 30, 2009, the Commission issued 26 orders and notices in docketed proceedings.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Office of the Commissioners				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Commissioners</b>	4.36	6.97	8.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$843,884.55	\$1,275,982.46	\$1,527,256.33
	<b>Non-Personnel Expenses</b>	<u>\$256,256.50</u>	<u>\$395,591.25</u>	<u>\$418,100.98</u>
	<b>Total Cost</b>	<b>\$1,100,141.05</b>	<b>\$1,671,573.71</b>	<b>\$1,945,357.31</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>1.14</b>	<b>4.57</b>	<b>2.28</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$277,769.20</b>	<b>\$1,112,049.71</b>	<b>\$555,538.40</b>		

## **Office of the Secretary (OS)**

The OS serves as the focal point for matters submitted to and emanating from the Commission. It is the public's main contact point with the FMC. The Office receives and processes a variety of documents filed by the public, including: complaints initiating adjudicatory proceedings for alleged violations of the shipping statutes and other applicable laws; special docket applications and requests to correct clerical or administrative errors in service contracts or NSAs; all communications, petitions, notices, pleadings, briefs, or other legal instruments in administrative proceedings; and subpoenas served on the FMC, its members or employees.

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 by the Commission on these matters; issuing orders and notices of actions of the Commission; maintaining official files and records of all formal proceedings and Commission regulations; issuing publications; and authenticating instruments and documents of the Commission. The Office also responds to information requests from Commission staff, the maritime industry, press, and the public; administers the Freedom of Information, Government in the Sunshine, and Privacy Acts; compiles historical Commission decisions; maintains a public reference/law library and a Docket Activity Library; manages the Commission's Internet website; and participates in the development and coordination of agency-wide public relations/outreach strategies and initiatives.

During fiscal year 2009, the OS continued to administratively process and direct all major filings addressed to the Commission and its component offices, including agreements filed under section 5 of the 1984 Act. The Office also issued 26 orders in docketed proceedings on behalf of the Commission.

The Office serves as the Commission's public information/press office. Accordingly, it prepares or coordinates the preparation of Commission news releases; responds to public and press inquiries or directs inquiries to the appropriate Commission bureau/office; and monitors the trade press for matters of agency interest for referral to the Chairman, Commissioners and staff.

The Office is significantly involved with the Commission's ongoing objective to enhance public awareness of agency resources, remedies and regulatory requirements through education and outreach. Several initiatives were undertaken during the fiscal year to expand contact with all segments of the maritime community and public, including participating on industry discussion panels, coordinating and hosting industry briefings, and updating informational material. During fiscal year 2009, the Office continued to facilitate the Commission's regular meeting schedule - providing a public forum for Commission discussion and action on industry and administrative matters before the Commission. During fiscal years 2010 and 2011, the Office plans to work with other Commission components to revisit and update agency-wide outreach initiatives previously identified, including those that focus on improving the Commission's ability to reach the shipping community and deliver information about available Commission resources to resolve cargo shipping issues.

During fiscal year 2009, the Office collaborated with other Commission components to implement plans for upgrading and modernizing the communication technology in the Commission's hearing room. Cabling and upgraded audio and video equipment were installed to facilitate more effective communication, both internally and externally. Through these improvements the Commission will be better positioned to timely disseminate information on its actions and activities, communicate its mission strategies and objectives, and reach a wider audience. Plans for system testing to digitally archive and broadcast public sessions of Commission meetings over the Internet are scheduled for fiscal year 2010. The Office will support this effort by providing the lead agency component advice on best government practices and technical, web-based requirements as related to web-broadcasting.

The Office promotes transparency and accountability on behalf of the Commission by evaluating, developing and implementing improvements to the Commission's website. During the fiscal year, the Office made adjustments to how information is presented, increased the amount of information available, and added functionality. For example, in May 2009, the Office worked with other Commission components to provide a publicly accessible, data-sharing tool to access carrier service contract statistics through the Commission's website. This enhancement provides greater public awareness and real-time access to the number and type of filings in the Commission's confidential service contract database. Providing access to this information illustrates the Commission's efforts to continually evaluate areas where it can balance security/legal requirements with open government on its website.

On an ongoing basis, the Office evaluates the overall usability of the website and works closely with other offices and bureaus to make content-driven, user-friendly improvements. During fiscal year 2010, the Office will oversee the upgrade of the Commission's website operating platform. The new, more modern platform will support plans to enhance website graphics, include more social networking/communications capabilities, and improve public visibility of the Commission's website. Once the new platform is in place and information and content has been migrated to the new system, during the latter part of fiscal year 2010 and into 2011, the Office will proceed with plans to systematically review and enhance website content.

The Office also continued discussions during the fiscal year with the OIT regarding alternatives for redesigning the agency's intranet. The scope of the agency's intranet redesign project has been expanded to encompass OIT's plans to improve the agency's collaborative capabilities and enhance efficiency in administrative business processes during 2010 and 2011.

The process of electronically scanning/imaging Commission records is an ongoing function of the Office. Not only does the Office electronically convert all official Commission files (both current and historical), it is responsible for planning, scheduling and systematically scanning documents for other agency components. The Document Management Program the Office oversees helps support the agency's initiatives for Continuity of Operations (COOP) by: improving preservation of and staff access to Commission documents, improving staff response time to public inquiries, and providing direct public access to electronic files. As a result of its scanning program, the Office continued to make key documents filed in formal proceedings available through its website.

During the fiscal year, the Office made substantial progress towards completion of a large-volume project. The contents of 28 bound volumes of historical Commission decisions issued between the years 1919 and 1987 are in the process of being posted to the Commission's website. These historical decisions are no longer available to the public in bound volume form. However, with the completion of this project, the entire body of historical Commission decisions issued in its adjudicatory proceedings will be available on the FMC website. Making this information readily available to the public in electronic form has proven to be a useful and cost effective resource, especially for attorneys practicing before the Commission. While significant data preparation was completed in fiscal year 2009 to further this project, limited staff resources were reallocated to meet the demands of preparing for, conducting and follow-up of twice-monthly Commission meetings. Pending availability of staff resources, the Office plans to complete this project in fiscal year 2010.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Office of the Secretary				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Secretary</b>	6.03	6.56	7.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$692,725.41	\$750,234.34	\$884,600.89
	<b>Non-Personnel Expenses</b>	<u>\$338,472.61</u>	<u>\$347,759.56</u>	<u>\$325,706.02</u>
	<b>Total Cost</b>	<b>\$1,031,198.02</b>	<b>\$1,097,993.90</b>	<b>\$1,210,306.91</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>1.05</b>	<b>5.42</b>	<b>0.53</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$181,546.04</b>	<b>\$937,123.35</b>	<b>\$91,637.52</b>		

During fiscal year 2011, the Office plans to develop an electronic, searchable database for the Commission's historical Informal Docket proceedings. The database will provide a more efficient research tool for historical cases and decisions related to Informal Docket proceedings filed with the Commission. The database will initially be available to staff attorneys, Settlement Officers, and the Office of Administrative Law Judges. Coordination and support from OIT may be necessary.

During fiscal year 2009, the Office implemented an online catalogue for the Commission's law/reference library collection that replaced an outdated card catalogue ahead of schedule and within the established project budget. The new automated system employs technology to improve workforce productivity by providing an in-house library access station, as well as agency-wide staff access to library holdings from individual desktops. The new system minimizes data entry into multiple library management systems, thus reducing redundancy and increasing administrative efficiencies.

In support of the Commission's strategic goal to protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes, during fiscal year 2011 the Office plans to initiate a review to modernize the Commission's Rules of Practice and Procedure, with particular emphasis on electronic filing of documents.

### **Office of Consumer Affairs and Dispute Resolution Services (CADRS)**

CADRS is responsible for developing and implementing the Commission's ADR program. Through this program, the Commission provides services to assist parties in resolving shipping disputes. The Office provides a range of services designed to avoid the expense and delays inherent in litigation, and to facilitate the flow of U.S. ocean commerce. With respect to matters already in litigation, or moving toward litigation, parties to a dispute are encouraged to avail themselves of mediation or other ADR processes to resolve their disputes. The Commission makes trained neutrals available to facilitate resolution at all stages. Outside neutrals also may be employed as needed. During fiscal year 2009, Commission mediators provided services in a number of matters, especially assisting parties in overcoming obstacles to delivery of transported goods.

CADRS also provides *ombuds* services to participants in ocean shipping transactions. Typical complaints include situations where an NVOCC or VOCC has placed a hold on cargo in its possession, often for sums owed under a different contract of carriage. Other cases occur when an NVOCC has received cargo from its customer and taken payment for the transportation of the cargo, but failed to deliver the cargo. Urgent resolution may facilitate delivery of shipments to avoid the accrual of additional demurrage/detention/storage charges. With respect to household goods shipments, consumers often use unlicensed entities that demand additional payment and/or abandon the goods and refuse to communicate with the consumer. Tracking the whereabouts of a shipment can be difficult, and often additional charges have accrued, necessitating payment of additional funds to obtain release of the shipment. CADRS also receives a significant number of complaints involving issues with cruise lines.

Another function of CADRS includes the adjudication of small claims through informal proceedings under 46 Code of Federal Regulations (CFR) Part 502, Subpart S. Office personnel serve as Settlement Officers in such cases, which involve complainants seeking reparations up to \$50,000 for violations of the shipping statutes. Those claims generally involve alleged prohibited acts in connection with the international transportation of goods, or the failure to establish, observe, and enforce just and reasonable regulations and practices.



During fiscal year 2009, 727 complaints were received that necessitated the opening of cases to provide dispute resolution services. These included 164 passenger complaints about cruise line issues (a 13% decrease from fiscal year 2008), 333 complaints with respect to household goods shipments (a 68% increase over fiscal year 2008), and 230 complaints involving other cargo shipment matters (a 27% increase over fiscal year 2008). Cargo shipment complaints continued to be of increasing complexity. Problems involving co-loaded shipments continue to be a significant issue. In addition to the above complaints, more than 650 information requests were processed.

In fiscal year 2009, as an apparent result of the economic downturn, a number of licensed NVOCCs went out of business. Those NVOCCs focusing on household goods shipments seem to have been affected more than others, which is reflected in the 64% increase of complaints for this category. Some NVOCCs had credit lines reduced or eliminated, causing significant cash flow problems and immediate demands for payments. As these NVOCCs wound down their businesses, CADRS worked with them to ensure that shipments were completed and customers received their cargo. This is reflected in the 27% increase in cases handled for cargo other than household goods.

CADRS received numerous complaints during fiscal year 2009 that involved a particular licensed NVOCC which specialized in household goods shipments. The NVOCC had a dispute with its United Kingdom (UK) agent over payments due that led to termination of a considerable line of credit. The NVOCC subsequently failed to make payments on shipments being held by the UK agent. The NVOCC then had problems with its agent in India and the vessel operator. In both instances, CADRS worked with the parties to ensure shippers obtained the release of their goods. These disputes concerned over \$100,000 in freight charges and goods valued at over \$1 million.

The Office also devoted substantial resources to mediating a dispute among an ocean carrier, two NVOCCs and a shipper, that also involved a U.S. port, where oil leakage from containers posed an environmental hazard. This problem was on the verge of generating at least three lawsuits in multiple fora. At the time CADRS received the request to mediate, the containers had been detained at the port for more than six months, and no party was stepping forward to remove them. Through mediation, an agreement was reached to fund and effect environmentally safe cleaning and removal of the containers, and then ultimately resolved various disputes as to the amount of damages.

Another issue that arose in fiscal year 2009 concerned a licensed NVOCC that was the subject of more than thirty complaints. This particular company had ceased operating and abandoned a number of containers without paying the ocean carrier. As a result, at least twenty containers were abandoned in Argentina. The shipments consisted of valuable cargo including vehicles, electronics, and appliances. CADRS conservatively estimates that the cumulative value of the cargo exceeded well over \$2 million. CADRS worked closely with Argentine customs and consulate staff, law enforcement officials, state agencies, shippers and carriers to locate shippers' cargo and assist in obtaining its release. CADRS is continuing its efforts to locate and secure release of the remaining shipments.

In fiscal years 2010 and 2011, CADRS intends to further expand awareness of the ADR program through education internally and externally, training and other outreach efforts. CADRS promotes and encourages the use of ADR and its various processes rather than litigation. Further efforts will be made to increase shipping industry awareness of this less adversarial, more cost-effective and time efficient means of resolving disputes in a manner that enables the parties to control the outcome. Use of mediation, in particular, will be promoted to assist in resolving formal proceedings and other significant disputes. CADRS will continue to make consumer protection information available and will expand its outreach with other Federal agencies, through various websites, and media sources. The real value of these efforts will be the number of consumers that are forewarned and thereby avoid problems. Through this means, assistance may be provided to many more consumers than could be possible through post-shipment problem resolution.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Consumer Affairs and Dispute Resolution Services				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>CADRS</b>	7.60	5.79	6.80
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$1,001,799.24	\$736,054.36	\$942,818.26
	<b>Non-Personnel Expenses</b>	\$293,678.74	\$237,237.64	\$269,703.54
	<b>Total Cost</b>	<b>\$1,295,477.98</b>	<b>\$973,292.00</b>	<b>\$1,212,521.80</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>0.00</b>		<b>6.60</b>		<b>0.20</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$0.00</b>		<b>\$1,176,859.39</b>		<b>\$35,662.41</b>

**Library**

The OS also oversees the Commission’s Library. The Library serves the Commission's research and information needs and is a specialized repository of current and basic materials primarily



covering the shipping industry, the history of shipping, and regulations covering all phases of shipping in the U.S. foreign trade. It contains a variety of books, directories, encyclopedias, journals, magazines, reports, microforms, and videos. The Library also contains material on several related fields such as engineering, economics, political science, and a collection of legal publications. The Library collection includes law encyclopedias, engineering textbooks, legal treatises, legislative materials, and selected titles of the National Reporter system. The Library's holdings consist of approximately 8,700 volumes and numerous microfiches, CD-ROMs, and on-line services.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Library				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Library</b>	1.00	1.00	1.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$102,068.49	\$105,862.99	\$111,184.04
	<b>Non-Personnel Expenses</b>	<u>\$252,623.10</u>	<u>\$284,238.99</u>	<u>\$286,948.76</u>
	<b>Total Cost</b>	<b>\$354,691.59</b>	<b>\$390,101.98</b>	<b>\$398,132.80</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.12</b>	<b>0.86</b>	<b>0.02</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$47,775.94</b>	<b>\$342,394.20</b>	<b>\$7,962.66</b>		

**Office of the General Counsel (OGC)**

The OGC 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 preparing final decisions, orders, and regulations for Commission review. In addition, the OGC 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 OGC also represents the Commission before the courts and Congress and administers the Commission’s international affairs program.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Office of the General Counsel				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>General Counsel</b>	9.65	9.97	10.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$1,400,916.49	\$1,381,102.87	\$1,485,294.63
	<b>Non-Personnel Expenses</b>	\$399,427.34	\$424,719.82	\$413,152.23
	<b>Total Cost</b>	<b>\$1,800,343.83</b>	<b>\$1,805,822.69</b>	<b>\$1,898,446.86</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>2.74</b>	<b>5.22</b>	<b>2.04</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$520,174.44</b>	<b>\$990,989.26</b>	<b>\$387,283.16</b>		

## **Decisions**

The following are rulemakings and adjudications representative of matters prepared by the OGC:

(a) Rulemakings

***Recodification of the Shipping Act as Positive Law; [Docket No. 09-06], 31 S.R.R.1048 (September 16, 2009)***

The Commission issued a Final Rule revising 46 CFR Parts 501, 502, 503, 504, 506, 508, 515, 520, 525, 530, 531, 535, 540, 545, 550, 551, 555, 560, and 565. The Shipping Act of 1984 and other statutes administered by the Commission were previously codified in the appendix to Title 46 of the United States Code. The House of Representatives introduced H.R. 1442 to complete the codification of the appendix as positive law. On October 6, 2006, H.R. 1442 was enacted as Public Law 109-304. This rule changes prior statutory references in the Commission's regulations to reflect the codification and does not involve any substantive changes. The Final Rule was published in the Federal Register on October 1, 2009, 74 FR 50713.

***Passenger Vessel Financial Responsibility; [Docket No. 02-15], \_\_\_\_ S.R.R. \_\_\_\_ (October 28, 2009)***

This proceeding was instituted by Proposed Rulemaking published on October 31, 2002, in FMC Docket No. 02-15. The Proposed Rule would have amended the Commission's passenger vessel regulations at 46 CFR Part 540, which implement the statutory requirement to provide proof of passenger vessel financial responsibility. The proposed rule elicited a broad range of comments from many sectors of the cruise industry. The Commission, however, determined that the record amassed in prior years is no longer legally sufficient to sustain contemporary efforts to either adopt or propose new alternatives to the Commission's financial responsibility requirements for PVOs. The record in this proceeding had effectively become stale, failing to account for changes in the industry that include, but are not limited to, the recent economic downturn that has greatly impacted most segments of the domestic and world economies. The proposed rulemaking was terminated on October 28, 2009, and the Commission is currently considering options for revising the passenger vessel regulations.

(b) Decisions

***Odyssea Stevedoring of Puerto Rico, Inc. v. Puerto Rico Ports Authority, [Docket No. 02-08]; International Shipping Agency, Inc. v. The Puerto Rico Ports Authority, [Docket No. 04-01]; and San Antonio Maritime Corp. and Antilles Cement Corp. v. Puerto Rico Ports Authority, [Docket No. 04-06], 30 S.R.R. 1339 (March 5, 2007)***

These cases came before the Commission for a determination whether the Puerto Rico Ports Authority (PRPA) is an arm of the Commonwealth of Puerto Rico and therefore entitled to sovereign immunity. Odyssea Stevedoring of Puerto Rico, Inc., International Shipping Agency, Inc. (Intership), San Antonio Maritime Corp. and Antilles Cement Corp. allege that PRPA's marine terminal leasing practices violated sections 10(b)(10), 10(d)(1), 10(d)(3), and 10(d)(4) of

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the Shipping Act. Further, Intership alleged PRPA violated section 10(a) (3) of the Shipping Act by failing to act in accordance with the terms of an agreement filed with the Commission. PRPA filed motions for summary judgment or motions to dismiss in all three cases, arguing that the complaints were barred by PRPA's sovereign immunity as an arm of the Commonwealth of Puerto Rico. In *Odyssea* and *Intership*, the ALJ ruled that PRPA was not entitled to sovereign immunity. The Commission, *sua sponte*, decided to review the ALJ's decision. On November 30, 2006, the Commission issued an order, on a 3-2 vote, finding that PRPA is not an arm of the Commonwealth of Puerto Rico and is therefore not entitled to sovereign immunity.

The Commission's order was appealed to the U.S. Court of Appeals for the D.C. Circuit (Case No. 06-1407). The Court heard oral argument on October 26, 2007. On July 8, 2008, the Court issued its opinion finding that PRPA is an arm of the Commonwealth of Puerto Rico and is therefore immune from suit absent its consent. Intership filed a motion on August 25, 2008, to stay the Court's mandate pending filing of a petition for *writ of certiorari*. The Court granted Intership's motion on September 16, 2008. A petition for a *writ of certiorari* at the United States Supreme Court was filed by Intership on October 8, 2008. The Supreme Court denied Intership's writ on February 23, 2009. The D.C. Circuit issued their mandate for the Commission to dismiss all three cases on March 6, 2009. The Commission dismissed all three PRPA cases on April 8, 2009.

***EuroUSA Shipping, Inc., Tober Group, Inc. and Container Innovations, Inc. – Possible Violations of Section 10 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R. § 515.27, [Docket No. 06-06], 31 S.R.R. 540 (December 18, 2008)***

This proceeding was instituted by Order of Investigation and Hearing served May 11, 2006, to determine whether respondents violated section 10(b) (11) of the Shipping Act and the Commission's regulations at 46 CFR 515.27, by knowingly and willfully accepting cargo from or transporting cargo for the account of an OTI that did not have a tariff and a bond as required by sections 8 and 19 of the Act. The ALJ granted Tober Group, Inc.'s (Tober) Motion for Summary Judgment, which was overturned by the Commission and remanded to the ALJ.

On October 9, 2009, the ALJ issued an Initial Decision in which he determined that Tober did not violate section 10(b)(11) of the Shipping Act, as it did not accept cargo from or transport cargo for the account of an NVOCC that does not have a tariff or bond; Tober committed 278 violations of section 10(b)(2)(A) of the Shipping Act; BOE did not meet its burden of persuasion regarding the amount of civil penalty to be assessed for Tober's violations of section 10(b)(2)(A) of the Act and therefore no penalty was assessed; and BOE did not meet its burden of persuasion that a cease and desist order should be issued. BOE filed exceptions to the Initial Decision which will be considered prior to the issuance of final decision.

With regard to Container Innovations, Inc., on October 9, 2009, the ALJ issued a Memorandum and Order in which he determined that additional briefing was necessary before the claims against it would be ripe for an initial decision. Therefore he directed BOE to file its proposed findings of fact and brief, and Container Innovations to file documents responsive to BOE's filings. On December 1, 2009, the ALJ issued an Initial Decision in which he determined that

Container Innovations violated section 10(b) (11) of the Shipping Act by knowingly and willfully accepting cargo from or transporting cargo for the account of an NVOCC that did not have a tariff or bond as required by the Shipping Act. The ALJ ordered Container Innovations to pay a civil penalty in the sum of \$390,000 for 13 willful and knowing violations of the Shipping Act.

With regard to EuroUSA Shipping, Inc., on October 9, 2009, the ALJ issued a Memorandum and Initial Decision in which he approved the settlement agreement between BOE and EuroUSA Shipping, Inc. This decision became administratively final on November 12, 2009.

***APM Terminals North America, Inc. v. Port Authority of New York and New Jersey, [Docket No. 07-01], 31 S.R.R. 623 (April 1, 2009)***

APM Terminals North America, Inc., commenced this proceeding by filing a complaint alleging that the Port Authority of New York and New Jersey violated section 10 of the Shipping Act of 1984 alleging it had been harmed by the Port Authority's failure to tender an additional portion of marine terminal property provided for in a lease between APM and the Port Authority. APM also claimed that the Port Authority's actions unlawfully preferred Maher Terminals, LLC, also a marine terminal operator. PANYNJ denied liability and filed a counter-complaint against APM. PANYNJ filed a third-party complaint against Maher Terminals claiming that Maher failed to timely surrender the premises sought by APM.

APM and PANYNJ entered into a settlement agreement and a supplemental agreement to the lease at issue between them resolving their claims and counter claims in this proceeding, which was approved by the presiding ALJ. On April 1, 2009, the Commission affirmed the ALJ's decision. The Commission rejected assertions by Maher to block the settlement as the agreement met the Commission's criteria for settlement and because Maher had not shown that the remaining claims between it and the Port Authority would be prejudiced. Maher's separate claims have been consolidated within its separate complaint case, Docket No. 08-03.

***Global Link Logistics, Inc. – Emergency Petition for Declaratory Order, Rulemaking or Other Appropriate Relief in Voluntary Disclosure Investigation, [Docket No. 08-07], 31 S.R.R. 718 (June 15, 2009)***

Petitioners Olympus Growth Fund, III, L.P. and Olympus Executive Fund, L.P. petitioned the Commission to issue a Declaratory Order, initiate a rulemaking or grant other appropriate relief to confirm that an industry practice involving domestic inland movements was not a violation of section 10(a)(1) of the Shipping Act. Alternatively, Petitioners requested that the Commission initiate a docketed proceeding for the purpose of granting Petitioners leave to intervene in a formal investigation of the shipment practices of Global Link Logistics, Inc. (Global Link), a non-vessel-operating common carrier in which Petitioners formerly owned a stake. In the Commission's Notice of Filing of Petition, it was requested that Global Link and the Commission's BOE reply to the petition. Subsequently, comments were invited from other interested parties with respect to the request in the petition to initiate a rulemaking proceeding. Global Link, BOE, and ABS Consulting filed comments generally opposing the relief sought in the Petition.

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On June 15, 2009, the Commission issued an Order Denying the Petition. The Commission denied the request to issue a Declaratory Order, on the grounds that it did not meet the requirements of Commission Rule 68, as Petitioners are private equity funds not subject to Commission jurisdiction, and they were not seeking a legal ruling on a proposed future course of action, as the activities in question had already occurred. The Commission also denied the request for a rulemaking, as Petitioners failed to set forth supporting facts and data showing convincing need for the broad regulatory relief envisioned in a rulemaking proceeding. Finally, the Commission denied the request to initiate a formal proceeding on the grounds that it encourages informal resolution of cases through compromise proceedings and has delegated to BOE authority to compromise civil penalties, and Petitioners did not include in their petition information or evidence justifying the institution of a formal investigation by the Commission.

***R.O. White & Company and Ceres Marine Terminals, Inc. v. Port of Miami Terminal Operating Company, Continental Stevedoring & Terminals, Inc., Florida Stevedoring, Inc., Ports America, Ports America Florida, Dante Fascell Port of Miami Dade, Miami-Dade County Seaport Department and Miami-Dade County; [Docket No. 06-11], 31 S.R.R. 783 (July 28, 2009)***

Complainants filed their complaint on November 22, 2006. Motions to dismiss were filed by Respondents. Complainants maintained that Respondents were MTOs subject to Commission jurisdiction. Complainants also alleged that Respondents operate as MTOs in violation of the Shipping Act by failing to follow agreements they filed with the Commission and by operating under agreements that should have been filed with the Commission. The Complainants, among other things, also alleged that Respondents adopted practices and implemented unfiled agreements which denied them the opportunity to perform stevedoring services for vessels at Respondents' terminal facilities, unlawfully preferred Respondents' stevedoring operations and engaged in unreasonable and discriminatory practices in violation of the Shipping Act.

Though the presiding ALJ ruled that the Commission has jurisdiction over Respondents as MTOs, he concluded that Complainants had not met their burden of proof to show that Respondents had sufficient economic power with regard to marine terminal services to force ocean carrier customers to accept the services of Respondents' preferred stevedores. The ALJ also concluded that Complainants had failed to carry their burden to show that Respondents' practices were unreasonable or amounted to unlawful discrimination. The ALJ dismissed the case. Complainants and Respondents separately informed the Commission in writing that they would not file exceptions. As the Commission did not decide to review the Initial Decision on its own motion, it became administratively final pursuant to 46 CFR 502.227 of the Commission's regulations.

### **Litigation**

The OGC represents the Commission in litigation before courts and other administrative agencies. Although the litigation work largely consists of representing the Commission upon petitions for review of its orders filed with the U.S. Courts of Appeals, the OGC also participates in actions for injunctions, enforcement of Commission orders, actions to collect civil penalties, and other cases where the Commission's interest may be affected by litigation.

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The following is representative of matters litigated by the OGC:

***Landstar Express America, Inc. and Landstar Global Logistics, Inc. v. Federal Maritime Commission, D. C. Circuit, Case No. 08-1152***

This proceeding is an appeal of the February 15, 2008 order in Commission Docket No. 06-08, *In the Matter of the Lawfulness of Unlicensed Persons Acting as Agents for Licensed Ocean Transportation Intermediaries – Petition for Declaratory Order*. The Commission denied the petition filed by Team Ocean Services, Inc. (Team Ocean), following review of the petition and three comments submitted thereon, including the comments of Landstar America, Inc. and Landstar Global Logistics, Inc. (Landstar). On April 14, 2008, Landstar filed a Petition to Review the Commission's Order, asserting in its Petition that it is a party aggrieved by the Commission's denial of Team Ocean's Petition. Petitioners submitted a single issue to be raised to the Court:

Whether the FMC Order's determination that it is unlawful under The Shipping Act of 1984, as amended, for an unlicensed agent to provide Non-Vessel-Operating Common Carrier (NVOCC) services in the name of and on behalf of a licensed NVOCC is arbitrary, capricious, contrary to the FMC's statutory authority, jurisdiction and existing precedent, inconsistent with the plain language of the applicable statute, an abuse of discretion, unsupported by substantial evidence, or otherwise contrary to law.

Pursuant to the schedule ordered by the Court, Landstar filed its opening brief December 4, 2008 and the Commission filed its brief on January 12, 2009, with Landstar filing its reply brief January 26. Oral argument was held on April 21, 2009. On June 26, 2009, the Court issued its order and opinion granting Landstar's Petition for Review, Vacating the Commission's Declaratory Order and remanding the case to the Commission. The Court ruled that the plain language of section 19 of the Shipping Act does not provide authority to the Commission to require agents of ocean transportation intermediaries to obtain an OTI license in order to act as an agent.

On November 6, 2009, the Commission issued an order granting the petition for declaratory order filed by Team Ocean, consistent with the Court's decision in *Landstar* that it is lawful for a licensed ocean transportation intermediary (OTI) to engage an unlicensed person to act as its agent to perform OTI services on behalf of the disclosed licensed OTI.

***Federal Maritime Commission v. City of Los Angeles, California, Harbor Department of the City of Los Angeles, Board of Harbor Commissioners of the City of Los Angeles, City of Long Beach, California, Harbor Department of the City of Long Beach, and the Board of Harbor Commissioners of the City of Long Beach, U. S. District Court for the District of Columbia, Case No. 08-1895***

On October 31, 2008, the Commission filed a complaint seeking a permanent injunction pursuant to section 6(g) of the Shipping Act against certain aspects of the Ports of Los Angeles and Long Beach (the Ports) Clean Truck Plan and harmonized concession agreements. The CTP and

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concession agreements are designed to require new, less-polluting trucks to serve the Ports but also add a requirement at Los Angeles that employee drivers be used although trucking at the Port is dominated by independent owner-operators. The Commission's action seeks to enjoin the employee driver requirements on the basis that it results in an unreasonable increase in costs and unreasonable decrease in service. On November 17, 2008, the Commission filed a motion for a preliminary injunction pending the Court's decision on the merits of the Commission's Complaint. On April 15, 2009, the Court denied the Commission's motion for a preliminary injunction, finding that the Commission had not shown that it met the applicable equitable standards for injunction. On June 16, 2009, the Commission filed a motion to dismiss this proceeding, citing changed circumstances including a preliminary injunction issued against the employee driver requirement in unrelated litigation in the Ninth Circuit Court of Appeals and the U.S. District Court for the Central District of California. On July 24, 2009, the Commission and the Ports filed a joint stipulation dismissing the proceeding which was terminated as of July 29, 2009.

***National Resources Defense Council, Inc., Sierra Club, Inc. and Coalition for Clean Air, Inc. v. Federal Maritime Commission, U.S. District Court for the Central District of California, Case No. 08-07436***

On November 10, 2008, the Complainants filed a complaint asserting that the Commission cannot take action that would impact the implementation of the Ports of Los Angeles and Long Beach Clean Trucks Program without first complying with the National Environmental Policy Act of 1969 (NEPA) and other environmental regulations. Attorneys from the Department of Justice Environment and Natural Resources Division and U.S. Attorney's Office for the Central District of California defended the Commission and filed a Motion to Dismiss the Proceeding with the Court, which Natural Resources Defense Council, Inc. opposed. Complainants filed a Notice of Voluntary Dismissal on September 11, 2009, which terminated the proceeding on that date.

***National Resources Defense Council, Inc. v. Federal Maritime Commission, U.S. District Court for the District of Columbia, Case No. 1:09-cv-00935***

On May 19, 2009, the National Resources Defense Council, Inc. (NRDC) filed a complaint for declaratory and injunctive relief against the Commission for denying NRDC a full waiver of fees under the Freedom of Information Act (FOIA). An Assistant U.S. Attorney was assigned to defend the Commission. An answer to the complaint was filed on July 9, 2009.

On September 28, 2009, NRDC filed its Motion for Summary Judgment on the merits of the case related to whether plaintiff qualifies for fee waivers. On November 6, 2009, DOJ and the Commission prepared the Consolidated Memorandum in Opposition to NRDC's Motion for Summary Judgment and in Support of its own Cross Motion for Summary Judgment. The NRDC's final brief on the fee waiver issue was filed on November 30, 2009 and the FMC's final brief was filed on December 18, 2009.



### **Legislative Activities**

The OGC represents the Commission's interests in all matters before Congress. This includes preparing testimony for Commission officials, responding to Congressional requests for information, commenting on proposed legislation, and responding to the Office of Management and Budget (OMB) requests for views on proposed bills and testimony.

During fiscal year 2009, 80 bills, proposals and Congressional inquiries were referred to the OGC for review or comment. The Office prepared and coordinated testimony for the agency's fiscal year 2010 budget authorization hearing before the U.S. House of Representatives Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation. In addition, the Office assisted in the preparation for one confirmation hearing before the Senate Committee on Commerce, Science and Transportation. The Office also worked closely with Congressional staffs on proposed legislation that may affect the Commission.

In fiscal years 2010 and 2011, the OGC will continue to take the lead in providing assistance and technical advice to Congress regarding issues for possible legislative consideration. The Office may also recommend legislative amendments as necessary to ensure uniformity with other Federal initiatives and to allow for the efficient and secure flow of ocean transportation.

### **Other Significant Activity**

***The Port of Los Angeles and Port of Long Beach Proposed Clean Trucks Program, and FMC Agreement No. 201170, Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement and FMC Agreement No. 201178, Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement, Docket No. 08-05***

On September 24, 2008, the Commission initiated FMC Docket No. 08-05, an investigation to determine whether certain practices of the Ports violate the Shipping Act of 1984. The Ports are members of the Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement (FMC Agreement No. 201170), currently on file with the Commission, that permits them to discuss, consult, and agree on the establishment and implementation of programs and strategies to improve port-related transportation infrastructure and to decrease port-related air pollution. Practices under investigation include: the mandate, on a phased-in basis, that Licensed Motor Carriers (LMCs) which serve the Port of Los Angeles (Port) utilize only employee drivers and not independent owners and operators; the ban on independent owner-operators providing drayage service at the Port; Port payments to certain motor carriers as an incentive to provide drayage service at the Port, but not to other similarly situated motor carriers; exemption of some cargo owners from paying a Clean Truck Fee but not others despite the fact that their cargo is moved in compliant trucks; the requirement that motor carriers providing container drayage service at the Port submit an application for a concession, but not publishing standards or criteria by which such applications will be granted or denied; and, refusal to deal or negotiate with motor carriers otherwise authorized to provide drayage service at the Port who conduct their port operations using independent owner-operators. This proceeding is distinct from the Commission's section 6(g) injunction proceeding in the U.S.

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District Court for the District of Columbia discussed above (*i.e.*, Case No. 08-1895). On July 28, 2009, the Commission's Bureau of Enforcement filed a motion to dismiss this proceeding, to which the Ports replied in support. On August 21, 2009, the Commission issued an order granting the motion due to significant changes in the current circumstances, including the preliminary injunction issued against the employee driver requirement in unrelated litigation in the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the Central District of California.

### **Foreign Shipping Restrictions and International Affairs**

The OGC is responsible for the administration of the Commission's international affairs program. The OGC monitors potentially restrictive foreign shipping laws and practices, and makes recommendations to the Commission for investigating and addressing such practices. The Commission has the authority to address restrictive foreign shipping practices under section 19 of the 1920 Act and the Foreign Shipping Practices Act. Section 19 empowers the Commission to make rules and regulations governing shipping in the foreign trade to adjust or meet conditions unfavorable to shipping. The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in foreign trade and that do not exist for foreign carriers in the U.S.

In fiscal year 2009, the Commission continued to monitor potentially restrictive shipping practices of the Government of Japan, including the effects of amendments to the Port Transportation Business Law enacted in 2000 and 2005. The Commission continued to receive and evaluate semiannual reports from United States-flag and Japanese-flag vessels operating in the trades with Japan pursuant to its proceeding in Docket No. 96-20, *Port Restrictions and Requirements in the United States/Japan Trade*. OGC staff served as technical advisors to the U.S. delegation to the semiannual U.S.-Japan Regulatory Reform talks held in Washington, D.C. in April 2009.

The OGC also pursued informally several matters that involved potentially restrictive foreign practices including new legislation, new interpretations of existing legislation, new regulations of non-domestic carriers' terminal handling charges and implementation by the People's Republic of China of new requirements on carriers to file tariff and service contract rates with a quasi-governmental entity and for that entity to establish a freight index based upon information received. OGC also provided expert assistance relating to non-ratemaking agreements among vessel-operating common carriers for the purpose of discussion by the United States' delegation at the Asian-Pacific Economic Cooperation conference in Singapore in July 2009.

Another responsibility of the OGC is the identification and verification of controlled carriers subject to section 9 of the Shipping Act. Common carriers that are owned or controlled by foreign governments are required to adhere to certain requirements under the Act, and their rates are subject to Commission review. The OGC investigates and makes appropriate recommendations to the Commission regarding the status of potential controlled carriers. The OGC, in conjunction with other Commission components, also monitors the activities of controlled carriers.

The OGC continues to take the lead in accomplishing the agency's performance goals relating to eliminating restrictions that unjustly disadvantage U.S. interests. OGC monitors foreign laws and practices to determine whether there are any unjust non-market barriers to trade. Where appropriate, the OGC will recommend Commission action.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Ethics				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Ethics</b>	0.00	0.00	0.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$0.00	\$0.00	\$0.00
	<b>Non-Personnel Expenses</b>	<u>\$0.00</u>	<u>\$3,466.86</u>	<u>\$3,707.19</u>
	<b>Total Cost</b>	<b>\$0.00</b>	<b>\$3,466.86</b>	<b>\$3,707.19</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>0.00</b>		<b>0.00</b>		<b>0.00</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$1,235.73</b>		<b>\$1,235.73</b>		<b>\$1,235.73</b>

**Designated Agency Ethics Official**

The Designated Agency Ethics Official is administratively within the Office of the Chairman, but the position is performed presently as a collateral duty by an attorney in the OGC.

The Ethics Official is responsible for administering public and confidential financial disclosure systems in order to prevent conflicts of interest from arising in the execution of the agency's regulatory functions. The Ethics Official conducts annual ethics training and provides day-to-day advice and guidance to ensure compliance with the standards of ethical conduct that apply to Executive Branch officials.

**Office of Administrative Law Judges (OALJ)**

Administrative Law Judges regulate the course of proceedings, conduct hearings, approve settlements, and render decisions in adjudicatory proceedings held after receipt of a private 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.

The case load of the Office is governed by the number of complaints and applications filed, the number of formal proceedings instituted by the Commission on its own motion, and other matters assigned in furtherance of the Commission's regulatory functions. Proceedings which come before the Office include, but are not limited to, the adjudication of discriminatory or unfair and unreasonable practices between various parties subject to the shipping acts, and adjudication of shipper complaints. ALJs also can process special docket applications on an as-needed basis.

<b>Federal Maritime Commission</b>				
<b>Formal Proceedings</b>				
Office of Administrative Law Judges				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Administrative Law Judges</b>	2.00	2.78	3.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$281,657.25	\$451,756.43	\$442,871.82
	<b>Non-Personnel Expenses</b>	<u>\$146,432.62</u>	<u>\$141,813.99</u>	<u>\$127,877.49</u>
	<b>Total Cost</b>	<b>\$428,089.87</b>	<b>\$593,570.42</b>	<b>\$570,749.31</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>0.43</b>		<b>1.71</b>		<b>0.86</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$81,807.40</b>		<b>\$325,327.11</b>		<b>\$163,614.80</b>

At the beginning of fiscal year 2009, 20 formal proceedings were counted as pending (on hand) before the OALJs. During the year, six formal proceedings were added. OALJ dismissed one formal proceeding and entered Initial Decisions resolving all issues in ten formal proceedings.

In one formal proceeding (07-01), OALJ issued a decision approving a settlement agreement between two parties, but claims between one of the settling parties and a third party were not resolved; therefore, this formal proceeding is counted as OALJ output, but also remains on hand at fiscal year end. In one formal proceeding (08-05), OALJ referred a motion to dismiss to the Commission (output). Pursuant to instructions from the United States Court of Appeals for the District of Columbia Circuit, the Commission dismissed three formal proceedings (02-08, 04-01, 04-06) counted by OALJ as on hand on September 30, 2008 and not counted as on hand at the end of fiscal year 2009.

## **Equal Employment Opportunity Program**

The Commission's Office of Equal Employment Opportunity Program follows Federal EEO and personnel management laws, concepts, procedures and regulations to develop, implement and manage a comprehensive program of equal employment opportunity. The program is statutorily mandated with required activities in complaints processing, adjudication, affirmative employment program planning, workforce diversity management, special emphasis programs, community outreach, monitoring and evaluation.

The Chairman is responsible for ensuring equal opportunity at the Commission. The Chairman has delegated this authority to the Director of Equal Employment Opportunity. Operational responsibility for compliance with EEO policies and programs lies with the Commission's front-line managers. The Director of EEO works independently under the direction of the Chairman to provide advice to senior staff and management in improving and carrying out policies and programs of non-discrimination, workforce diversity and affirmative employment program planning. The Director arranges for EEO counseling or ADR for employees who raise allegations of discrimination; provides for the investigation, hearing, fact-finding, adjustment, or early resolution of such complaints of discrimination; accepts or rejects formal complaints of discrimination; prepares and issues decisions for resolution of formal complaints; and monitors and evaluates the program's impact and effectiveness. In addition, the Director represents the agency on several intergovernmental committees, coordinates all affirmative program planning efforts, directs programs of special emphasis, coordinates the activities of the Selective Placement and Federal Equal Opportunity Recruitment Coordinators, and also supervises two collaterally-assigned EEO counselors.

The Office works closely with senior management and with the Commission's OHR to: (1) monitor affirmative employment programs; (2) expand outreach and recruitment initiatives; (3) improve the representation, career development and retention of women, minorities and persons with disabilities; (4) provide adequate career counseling; (5) facilitate early resolution of employment-related problems; and (6) develop program plans and progress reports.

Significant accomplishments in fiscal year 2009 include the following: (1) coordinated ongoing "No FEAR Act" (Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002) training for all new employees; (2) provided EEO and non-EEO related counseling assistance to Commissioners, managers, supervisors and employees in addressing issues that arose; (3) continued providing support and assistance to managers and supervisors in striving to maintain and effectively manage a diverse workforce; (4) supported the ongoing Federal Hiring Reform initiative through participation on an FMC "SWAT" team; (5) collaborated with OGC and Federal Shared Neutrals to effectively utilize mediation as a mechanism to resolve EEO issues at the formal stage of the EEO process; (6) continued to administer an effective EEO complaint process that strives to attempt resolution of issues informally through collaborative ADR techniques at the lowest possible level; (7) held commemorative programs for all FMC employees for National Black History Month, Women's History Month, and Asian Pacific Heritage Month while also recognizing Hispanic Heritage Month, Native American Indian Heritage Month, and Gay and Lesbian Pride Month through electronic announcement;

(8) coordinated the agency effort during the FEDS FEEDS FAMILIES national food drive; (9) attended various EEO-related training conferences and seminars, including the EXCEL Conference and the Human Resource (HR) and EEO in the Federal Workplace Conference; (10) prepared all required EEO and affirmative employment program accomplishment reports and plans; and (11) continued to administer the EEO process in support of the goal of achieving and maintaining a model work environment in accordance with Federal EEO policy and affirmative employment goals and objectives.

<b>Federal Maritime Commission</b>				
<b>Equal Employment Opportunity Program</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Headquarters</b>	0.73	1.00	1.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$115,154.06	\$156,219.08	\$160,155.89
	<b>Non-Personnel Expenses</b>	<u>\$36,297.35</u>	<u>\$70,059.76</u>	<u>\$68,029.11</u>
	<b>Total Cost</b>	<b>\$151,451.41</b>	<b>\$226,278.84</b>	<b>\$228,185.00</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>0.14</b>		<b>0.57</b>		<b>0.29</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$31,945.90</b>		<b>\$130,065.45</b>		<b>\$66,173.65</b>

During fiscal years 2010 and 2011, the Office will continue all existing programs and initiate additional activities designed to increase an understanding of EEO concepts and principles, including monitoring workforce diversity, conducting diversity training, outreach, retention, career development initiatives, administering a barrier analysis as part of Management Directive 715 (MD-715) requirements, orchestrating interactive mediation training for all interested FMC employees, and administer mandatory No FEAR Act training. MD-715 is the policy guidance which the Equal Employment Opportunity Commission provides to Federal agencies for their use in establishing and maintaining effective programs of equal employment opportunity under Section 717 of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. 2000e *et seq.*, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. 791 *et seq.*



## **Inspector General Program**

The Office of Inspector General (OIG) operates pursuant to the Inspector General Act of 1978 (1978 Act) (5 U.S.C. App. 3), as amended in 1988, and by the Inspector General Reform Act of 2008 (Reform Act) (5 U.S.C. app. 8G). The 1988 amendments created additional statutory Offices of Inspector General at various designated Federal entities, including the Federal Maritime Commission. The Reform Act further enhanced the independence of Office of Inspectors General by adding IG compensation, staffing and removal provisions.

The purpose of the 1978 Act, as amended, and as applicable to the FMC, is to create an independent and objective unit to conduct audits; review operations and programs; investigate possible fraud, waste and mismanagement of resources; and promote economy, efficiency and effectiveness in programs and operations administered by the FMC.

The OIG is staffed by an IG, an Assistant Inspector General for Audit and an IG Counsel / Chief Investigator.

The IG works independently under the general supervision of the Chairman. The IG does not report to, and is not subject to supervision by, any other Officer or employee of the FMC. The OIG has Memorandums of Understanding with Office of Inspectors General at the U. S. Social Security Administration for investigative assistance and the Federal Trade Commission for audit quality assurance support. In addition, the Office utilizes the expertise of private sector accountants and information security analysts to assist in performing specialized audits and reviews.

During fiscal year 2009, the OIG issued two semiannual reports to Congress discussing the Office's audit and investigative activity for the fiscal year. OIG individual reports included an audit of the agency's fiscal year 2008 financial statements and a companion report to management containing financial-related findings and recommendations resulting from the audit. The OIG also issued an evaluation report on information security, six separate reports to management on time and attendance practices in select FMC bureaus and offices, and performed a program inspection of the agency's checkout process.

On the investigative side, the OIG processed 42 complaints received on the office's hotline and anonymous e-mail link. OIG opened one preliminary investigation based on information provided by a member of the maritime industry.

During the year, the OIG implemented several provisions pertaining to the Reform Act, including revising an internal Commission Order on OIG processes and procedures to reflect Reform Act requirements and working with the agency's webmaster to provide a direct link to the OIG's website from the FMC's homepage.

The OIG also coordinated with FMC program staff to provide assistance to other Federal agencies. For example, the OIG arranged a briefing by the Office of Operations (including the Bureau of Enforcement and the Bureau of Certification and Licensing) for OIG agents from the



Export-Import Bank of the United States. Also during the period, the OIG requested assistance from BTA on behalf of the U.S. Army Criminal Investigation Division pertaining to an ongoing investigation.

The OIG responded to the House Committee on Oversight and Government Reform, Ranking Minority Member's request, regarding open (unimplemented) OIG recommendations. On a separate matter, the IG briefed Senate Commerce Committee staff, at staff's request, on background information concerning agency and OIG program activities.

In addition to these audit and investigative activities and initiatives, the IG staff participated in several activities pertaining to the Council of Inspectors General on Integrity and Efficiency, (CIGIE), including actively serving on the Legislation Committee where IG staff reviewed and commented on several legislative initiatives affecting the IG community. The OIG also performed a peer review of the audit quality control policies and procedures at a sister OIG from the U.S. Election Assistance Commission.

During fiscal years 2010 and 2011, the OIG will continue to place a high priority on audits and reviews with the objective of improving agency programs and operations. The OIG will complete statutorily-required reviews to include separate audits of the FMC's fiscal years 2010 and fiscal year 2011, financial statements and an evaluation of the agency's information security program and privacy assurance controls, as required by the Federal Information Security Management Act, continue site visits to FMC area offices to better understand regulatory and programmatic issues and concerns from a field office perspective and continue to focus on reviews of FMC mission-based programs.

The OIG will continue to actively participate in IG community activities and maintain membership in the CIGIE, the Council of Counsels to Inspectors General (CCIG) and the Federal Audit Executive Council (FAEC). The OIG will continue to work with the OMB, CIGIE, CCIG and FAEC on joint projects which affect the IG community. The Office will also continue to keep the Chairman, Commissioners, OMB and the Congress fully informed regarding its audit and investigative activities.

<b>Federal Maritime Commission</b>				
<b>Inspector General Program</b>				
		FY 2009	FY 2010	FY 2011
		Actual	Enacted	Request
<b>FTE:</b>	<b>Inspector General</b>	2.50	2.97	3.00
	Field	0.00	0.00	0.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$355,064.91	\$498,704.04	\$522,128.86
	<b>Non-Personnel Expenses</b>	<u>\$215,750.07</u>	<u>\$264,025.01</u>	<u>\$257,714.83</u>
	<b>Total Cost</b>	<b>\$570,814.98</b>	<b>\$762,729.05</b>	<b>\$779,843.69</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.00</b>	<b>0.00</b>	<b>3.00</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
<b>\$0.00</b>	<b>\$0.00</b>	<b>\$779,843.69</b>		

**Office of Operations (OPs)**

<b>Federal Maritime Commission</b>				
<b>Operations</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	3.77	4.00	4.00
	<b>Area Representatives</b>	8.08	8.00	8.00
	<b>Bureau of Trade Analysis</b>	19.65	20.00	20.00
	<b>Bureau of Certification and Licensing</b>	17.12	19.00	19.00
	<b>Bureau of Enforcement</b>	<u>11.85</u>	<u>12.00</u>	<u>12.00</u>
	<b>Total FTEs</b>	<b>60.47</b>	<b>63.00</b>	<b>63.00</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$7,705,349.24	\$8,089,175.23	\$8,536,330.53
	<b>Non-Personnel Expenses</b>	<u>\$2,617,872.83</u>	<u>\$2,957,438.56</u>	<u>\$2,906,317.75</u>
	<b>Total Cost</b>	<b>\$10,323,222.07</b>	<b>\$11,046,613.79</b>	<b>\$11,442,648.28</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>15.00</b>	<b>42.32</b>	<b>5.68</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$2,740,965.00</b>	<b>\$7,519,656.51</b>	<b>\$1,182,026.77</b>		

**Office of the Director**

The Director of Operations, as a senior staff official, is responsible to the Chairman for the management and coordination of the:

- Bureau of Trade Analysis;
- Bureau of Certification and Licensing;
- Bureau of Enforcement; and
- Area Representatives.

OPs oversees the development and operation of various programs and recommends new programs and necessary changes in staff objectives. The Director of OPs has been designated as the agency's Performance Improvement Officer (PIO). Subject to the direction of the Chairman, the PIO supervises the Commission's performance management activities, including development of the agency's goals, plans and performance reports.

In the PIO capacity, in fiscal year 2009, the OPs finalized the agency’s strategic plan for 2010-2015, which revised the agency’s mission statement and strategic goals. The plan reflects a more streamlined and mission-focused description of the agency, its functions, and direction to achieve these goals. It highlights the Commission’s primary program activities and sets performance goals designed to measure the impact of those activities on the shipping public. The OMB reviewed the plan, and after opportunity for public comment in fiscal year 2008, the final plan was adopted by the Commission on December 3, 2008 and submitted to Congress.

<b>Federal Maritime Commission</b>				
<b>Operations (Including Area Representatives)</b>				
Office of the Director				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	3.77	4.00	4.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$584,477.04	\$594,885.21	\$622,025.30
	<b>Non-Personnel Expenses</b>	<u>\$320,824.91</u>	<u>\$404,305.44</u>	<u>\$417,873.58</u>
	<b>Total Cost</b>	<b>\$905,301.95</b>	<b>\$999,190.65</b>	<b>\$1,039,898.88</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>1.20</b>		<b>2.15</b>		<b>0.65</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$311,969.66</b>		<b>\$558,945.65</b>		<b>\$168,983.57</b>

In fiscal year 2009, the Office led the operational Bureaus, through oversight and guidance, towards the accomplishment of many programmatic achievements. The Office continued work with staff to review and report to the Commission on emerging industry changes in all sectors. This fiscal year saw a continuing high volume in the number of OTI licenses sought and granted as well as an increase in the number of MTO discussion agreements filed. In fiscal year 2009, the Commission considered agreements including the Los Angeles/Long Beach/Terminal Operator Administration and Implementation Agreement, and the Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement. OPs coordinated and assisted in the Bureaus’ recommendations and consideration of these high-profile agreements. The activities of the various Offices are described below.

During fiscal year 2009, the OPs continued to lead the Bureaus of Enforcement and Certification and Licensing in the review and coordination of compliance and enforcement policy. OPs worked with other Commission offices toward the integration and modernization of agency databases and the automation of key agency forms to facilitate ease of access and efficiency of agency processes.

The Commission's ARs act as liaisons with the shipping industry at a local level and as a resource to all Bureaus and Offices of the Commission. The Commission maintains a presence in Los Angeles, South Florida, New Orleans, New York, Houston and Seattle through ARs based in each of those cities. These representatives also serve other major port cities and transportation centers within their respective areas. In addition to monitoring and investigative functions, ARs represent the Commission within their jurisdictions, provide liaison between the Commission and the maritime industry and the shipping public, collect and analyze information of regulatory significance, and assess industry conditions. Liaison activities involve cooperation and coordination with other governmental agencies and departments, providing regulatory information and relaying Commission policy to the shipping industry and the public, and handling informal complaints within each representative's area of responsibility. The ARs also work on Commission outreach through seminars, participation at various conferences and trade shows, presentations, and local community contacts.

In fiscal year 2009, hundreds of informal complaints were handled by the ARs. These complaints often involved unlawful activity that could not be resolved and compliance achieved informally, and in other cases as required, investigations were opened by OPs. If a potential violation remained unresolved, a proceeding was referred to the Bureau of Enforcement for further action as described later in this report.

The ARs were instrumental in broadcasting public service announcements published by the OPs for each major port area in fiscal year 2009, warning against the use of unlicensed OTIs. The Area Representatives contributed to this effort through selection of appropriate local publications. These warnings facilitated numerous inquiries and reports to the ARs regarding licensed and unlicensed OTI activity and an apparent decrease in complaints about the activities of unlicensed entities in communities in which they were published.

In fiscal year 2009, the ARs, with the assistance of the BCL, made presentations on OTI licensing requirements and compliance for recently licensed companies, current applicants and persons interested in becoming licensed, to audiences in Florida, Oregon, and Texas. Area Representatives also briefed or addressed key officials of the New York City Police Department, New Jersey State Police, Houston Police Department, Association of Ship Brokers and Agents, Steering Committee of Sea Cargo Americas, University of Miami School of Law, International Cargo Committee of the Greater Miami Chamber of Commerce, Columbia River Customs House Brokers and Freight Forwarders, Export-Import Bank Office of Inspector General, National Defense Transportation Association, and U.S. Customs and Border Patrol.

<b>Federal Maritime Commission</b>				
<b>Operations (Including Area Representatives)</b>				
Area Representatives				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Area Representatives</b>	8.08	8.00	8.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$1,171,993.24	\$1,184,601.04	\$1,230,203.50
	<b>Non-Personnel Expenses</b>	<u>\$500,109.86</u>	<u>\$459,551.48</u>	<u>\$439,324.04</u>
	<b>Total Cost</b>	<b>\$1,672,103.10</b>	<b>\$1,644,152.52</b>	<b>\$1,669,527.54</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.72</b>	<b>7.20</b>	<b>0.08</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$150,257.48</b>	<b>\$1,502,574.78</b>	<b>\$16,695.28</b>		

The ARs participated in task forces and initiatives sponsored by local law enforcement agencies, the U.S. Department of Justice, the Department of Homeland Security, through Customs and Border Patrol and Immigration and Customs Enforcement, and the Department of Commerce. This participation facilitates sharing of information on illegal activities.

The Office's key objectives for fiscal years 2010 and 2011 include instituting the Commission's policies by refining and enhancing programs and operations. Upcoming challenges that will require coordination and policy oversight of the Office include review of regulations affecting those entities recently impacted by both the economic downturn and various legal challenges. In particular, the FMC's rules for PVOs and OTIs will be closely examined. OPs will work with the OA in pursuit of integrated and automated agency information systems, including enhancements to currently available electronic applications such as the FMC-18. In cooperation with the OS, OPs will build upon outreach efforts and raise public awareness of agency regulations and services. Through the ARs, OPs will use investigative, liaison and outreach functions to continue to increase protection of the shipping public from unlawful practices in the marketplace. The ARs will be instrumental in any review of rules concerning OTIs or OTI licensing. OPs will continue to refine the Commission's strategic and annual performance planning and reporting process, working to further focus performance goals and measures.

**Bureau of Trade Analysis (BTA)**

BTA plans, develops, and administers the following activities: (1) monitoring general trade conditions and economic developments in liner shipping; (2) overseeing individual and concerted carrier and MTO activity; (3) developing and analyzing economic studies in support of the Commission's regulatory responsibilities; (4) processing and analyzing carrier and marine terminal agreements; (5) providing expert economic testimony and support in formal proceedings, particularly regarding unfair foreign shipping practices; (6) processing, reviewing, and monitoring confidential service contracts and amendments (filed by ocean common carriers, conferences, and agreements), and NVOCC service arrangements (NSAs); (7) reviewing requests to correct clerical or administrative errors in service contracts; (8) ensuring that statements of certain essential terms associated with service contracts are published in tariffs and made available to the public; (9) auditing tariff publishing systems to ensure that tariffs are accessible and accurate; (10) processing FMC-1 registration forms submitted by carriers and conferences and posting and updating the location of carrier tariffs on the Commission's website; (11) acting on special permission applications to deviate from tariff publishing rules; (12) monitoring the activities of controlled carriers; and (13) supporting other Commission components with regard to regulatory requirements.

The Bureau furnishes support in formal proceedings arising in the areas of its expertise. The Bureau provides analyses and recommendations on petitions, information demand orders, and Commission-initiated rulemakings, and provides expert witness testimony in investigations of potential statutory violations and unfair foreign shipping practices. Further, the Bureau prepares economic testimony in Commission investigations.

In fiscal year 2009, BTA participated in the following matters: (1) acting as expert witness in the Commission's litigation in the U.S. District Court pursuant to section 6(h) of the Shipping Act of 1984 against FMC Agreement No. 201170; (2) conducting semiannual meetings with agreement representatives pursuant to the settlement terms of Fact Finding Investigation No. 25, *Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season*; and (3) issuance of Section 15 Orders to VOCCs in the U.S.-Australia and New Zealand northbound and southbound trades.

<b>Federal Maritime Commission</b>				
<b>Bureau of Trade Analysis</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	4.38	4.00	4.00
	<b>OSCT</b>	5.27	6.00	6.00
	<b>OECA</b>	6.00	6.00	6.00
	<b>Agreements</b>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>
	<b>Total FTEs</b>	<b>19.65</b>	<b>20.00</b>	<b>20.00</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$2,314,628.10	\$2,464,296.14	\$2,574,828.05
	<b>Non-Personnel Expenses</b>	<u>\$765,838.72</u>	<u>\$885,182.13</u>	<u>\$866,779.16</u>
	<b>Total Cost</b>	<b>\$3,080,466.82</b>	<b>\$3,349,478.27</b>	<b>\$3,441,607.21</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>11.00</b>	<b>6.80</b>	<b>2.20</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$1,872,780.73</b>	<b>\$1,129,103.63</b>	<b>\$439,722.85</b>		

The three operating Offices under the supervision of the Bureau Director are: the Office of Service Contracts and Tariffs (OSCT), the Office of Economics and Competition Analysis (OECA), and the Office of Agreements (OAGR). The OSCT is responsible for processing, reviewing, and monitoring confidential service contracts and NSAs, and ensuring that the statements of certain essential terms associated with service contracts and NSAs are published and made available to the public. Further, OSCT ensures that carrier tariffs are accessible and accurate; that the location of carrier tariffs as submitted in FMC-1 registration forms is correct; and that those locations are published on the Commission’s website and updated periodically. OECA develops and administers programs overseeing individual and concerted carrier activities, carriers' dealings with shippers and intermediaries, activities of controlled carriers in U.S. foreign commerce, foreign shipping practices, and overall U.S. liner trade conditions. OAGR is responsible for processing and analyzing carrier and marine terminal agreements filed with the Commission and maintaining various agreement databases.



<b>Federal Maritime Commission</b>				
<b>Bureau of Trade Analysis</b>				
Office of the Director				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	4.38	4.00	4.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$689,001.47	\$601,374.04	\$624,859.91
	<b>Non-Personnel Expenses</b>	<u>\$765,838.72</u>	<u>\$885,182.13</u>	<u>\$866,779.16</u>
	<b>Total Cost</b>	<b>\$1,454,840.19</b>	<b>\$1,486,556.17</b>	<b>\$1,491,639.07</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>2.10</b>	<b>1.20</b>	<b>0.70</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$783,110.51</b>	<b>\$447,491.72</b>	<b>\$261,036.84</b>		

***Office of Service Contracts and Tariffs***

The Shipping 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 Commission in the automated service contract filing system (SERVCON). In January 2005, the Commission permitted NVOCCs to enter into NSAs with their shipper customers. These are also filed in SERVCON.

<b>Federal Maritime Commission</b>				
<b>Bureau of Trade Analysis</b>				
Office of Service Contracts and Tariffs (OSCT)				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>OSCT</b>	5.27	6.00	6.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$496,632.59	\$663,054.38	\$687,714.07
	<b>Non-Personnel Expenses</b>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
	<b>Total Cost</b>	<b>\$496,632.59</b>	<b>\$663,054.38</b>	<b>\$687,714.07</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>2.80</b>	<b>2.30</b>	<b>0.90</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$320,933.23</b>	<b>\$263,623.73</b>	<b>\$103,157.11</b>		

During fiscal year 2009, there were 45,328 service contracts and 412,570 contract amendments filed into the Commission’s automated SERVCON system. OSCT recorded 7 new VOCCs filing registrations in fiscal year 2009. Since NSAs were first allowed, more than 796 entities have registered to file NSAs. During fiscal year 2009, 1,289 original NSAs and 2,389 amendments were filed by 62 NVOCCs.

The Shipping Act requires carriers and conferences to publish their tariffs electronically. 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. OSCT reviews and monitors the accessibility and accuracy of these private systems, and reviews published tariff material for compliance with the Shipping Act’s requirements.

OSCT collects and processes information provided by carriers, MTOs, and OTIs concerning, among other things, the Internet location (URL) of their tariffs and schedules via Form FMC-1 filings. In fiscal year 2009, OSCT received, processed and reviewed 1,190 Form FMC-1 filings. These Internet locations in turn are made available to the shipping public via the Commission’s website. Last year, OSCT posted 4,709 active/current tariff/schedule internet addresses to the agency’s website. Also, in fiscal year 2009, OSCT posted the historical tariff addresses for 2,744 inactive/cancelled tariffs.

Unlike carriers, who are required to maintain a tariff publication, MTOs have the option of publishing schedules of their rates, regulations, and practices, including limitations of liability for cargo loss or damage. Last year, 152 MTOs made their schedules available to the public. At the end of the year, there were 4,225 NVOCCs, 326 VOCCs, 6 conferences and 152 MTOs with FMC-1 forms on file indicating the location of their tariffs or MTO schedule publications.

OSCT also evaluates applications for special permission to deviate from tariff publishing rules and regulations. During fiscal year 2009, OSCT received and processed two special permission applications.

OSCT monitors the tariff and service contract activity of controlled carriers. Under the Shipping Act, no controlled carrier may maintain rates or charges in its tariffs or service contracts that are below a level that is just and reasonable, or establish or maintain unjust or unreasonable classifications, rules, or regulations in its tariffs or service contracts. In addition to monitoring the activities of known controlled carriers, the Bureau reviews trade publications to identify carriers that might be controlled by a foreign government. No changes to the Commission's prior classifications of controlled carriers were made in fiscal year 2009.

#### **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 ocean liner transportation, OECA 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 Commission, or concerted activity exceeding the scope or authority of an effective agreement; (2) activity contravening the mandatory conference agreement provisions required under 46 U.S.C. 40303; (3) the potential for, or emergence of, unreasonable service reductions/cost increases that contravene the general standard in 46 U.S.C. 41307(b)(1); (4) controlled carrier activity in accordance with the statutory requirements in 46 U.S.C. 40701-40706; (5) the occurrence of prohibited activities as proscribed in 46 U.S.C. 41101-41106; (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 Commission decisions, rules, and policies. Activities conducted under certain types of operational agreements among MTOs, particularly those with rate authority, also are monitored. The Bureau also 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.

<b>Federal Maritime Commission</b>				
<b>Bureau of Trade Analysis</b>				
Office of Economics and Competition Analysis (OECA)				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>OECA</b>	6.00	6.00	6.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$742,579.38	\$781,312.63	\$806,872.48
	<b>Non-Personnel Expenses</b>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
	<b>Total Cost</b>	<b>\$742,579.38</b>	<b>\$781,312.63</b>	<b>\$806,872.48</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>3.60</b>		<b>2.05</b>		<b>0.35</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$484,123.49</b>		<b>\$275,681.43</b>		<b>\$47,067.56</b>

In fiscal year 2009, BTA administered its agreement oversight activities relating to ocean common carriers and marine terminal operators and prepared various reports and analyses. These included: (1) in conjunction with other Offices and Bureaus, preparing a competitive impact assessment of the Clean Trucks Program that was devised as part of the Clean Air Action Plan under the *Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement*; (2) preparing expert testimony in support of the Commission's challenge in U.S. District Court to the *Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement*; (3) collecting and analyzing specific pricing, financial and operational data from carriers serving the trade between the U.S. and Australia/New Zealand following the issuance of an order under section 15 of the Shipping Act to address concerns about competitive conditions in the trade that may affect prices and services to an unreasonable extent; (4) preparing a formal request for additional information for the Commission following the filing of an amendment by the *Transpacific Stabilization Agreement* that would have allowed the agreement parties to discuss the development of a plan to jointly rationalize capacity in the nation's largest inbound liner trade; (5) defining the parameters of a study that will examine the impact of eliminating antitrust immunity in the U.S.-Europe trades as a result of the repeal by the EU of the block exemption [Council Regulation (ECC) No. 4056/86] for liner shipping conferences in the EU trades, with the study design allowing input from the shipping industry and others; (6) monitoring of controlled carriers to ensure that U.S. trades

remain substantially free of unfair trading practices of foreign governments; and (7) updating financial figures for the recommendation in FMC Docket No. 02-15, *Passenger Vessel Financial Responsibility*, in order to provide estimates of the weighted average cost of capital for two large cruise lines using the latest publicly available financial data for 2008.

During fiscal year 2009, OECA prepared several formal requests for additional information for the Commission to issue to the parties of several agreements, completed the initial review and competitive analysis of newly filed agreements and amendments to agreements, designed and imposed special reporting requirements on several terminal agreements, and assisted the Commission in preparing for hearings before Congress and for official speaking engagements.

OECA also receives and reviews minutes of meetings and reports filed by various agreement parties. OECA reviews these reports for filing compliance and uses the data to support its monitoring activities. In fiscal year 2009, the Bureau received and reviewed 1,050 sets of minutes, 368 monitoring reports, 167 Voluntary Service Contract Guidelines (VSCGs), 24 *ad hoc* reports, and 5 applications for waivers to the minutes and/or monitoring report filing requirements.

In fiscal year 2009, several carrier agreements began using, on a voluntary basis, a web-based system for filing meeting minutes, monitoring reports and VSCGs under a pilot program begun in fiscal year 2008. Most documents required to be filed are now being received in this manner, and the Bureau hopes to formalize and expand this process with the assistance of the OIT.

### **Office of Agreements**

The focus of OAGR is to analyze the potential impact carrier or terminal agreements will have on competition, in particular whether it is likely that agreements will result in an unreasonable increase in transportation cost or decrease in service.

During fiscal year 2009, OAGR received 158 agreement filings, including amendments to existing agreements. The Bureau reviewed, evaluated, and processed 156 filings, including 6 pending from fiscal year 2008. The number of agreement filings in 2009 was down by 14% from 2008. In 2009, there were 224 effective carrier agreements on file, a decrease of 2 from fiscal year 2008. The number of carrier agreements on file has declined slightly since fiscal year 2004, when there were 232 agreements on file. Operational agreements, those involving the sharing of vessel space, continued to be the predominant type of agreement on file, accounting for 71% of agreements on file in 2009. Conferences, once the dominant pricing forum, have lost much of their influence over the last ten years. Since fiscal year 2000, the number of conferences has fallen 78%, from 23 to 5. Conferences accounted for just 2% of all effective carrier agreements in 2009.

The number of marine terminal agreements on file continues to fall as terminal operators take advantage of the Commission's filing exemption for terminal leases and terminal services agreements. In 2009, there were 164 terminal agreements on file, down from 182 at the end of 2008. Although the decline in the number of MTO agreements can be attributed mostly to the filing exemptions, OAGR ascertained that a number of older agreements that were on file had

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expired or were terminated without notice to the agency. The foregoing notwithstanding, the Bureau has seen an increase in the number of new discussion agreements among MTOs, especially those concerning environmental issues. Since fiscal year 2005, the number of MTO discussion agreements on file has more than doubled, from 7 to 19. This increase represents the largest percentage gain by any class of MTO agreement during that period. During that same time frame, the number of MTO conferences dropped by 35%, from 14 to 9.

<b>Federal Maritime Commission</b>				
<b>Bureau of Trade Analysis</b>				
Office of Agreements				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Agreements</b>	4.00	4.00	4.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$386,414.66	\$418,555.09	\$455,381.59
	<b>Non-Personnel Expenses</b>	\$0.00	\$0.00	\$0.00
	<b>Total Cost</b>	<b>\$386,414.66</b>	<b>\$418,555.09</b>	<b>\$455,381.59</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		Advance agency objectives through high-performance leadership and efficient stewardship of resources
<b>2.50</b>		<b>1.25</b>		<b>0.25</b>
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>		<b>Strategic Goal 2</b>		<b>Strategic Goal 3</b>
<b>\$284,613.49</b>		<b>\$142,306.75</b>		<b>\$28,461.35</b>

Agreement regulations enacted in fiscal year 2005 allowed for low market-share agreements without pricing or capacity rationalization authorities to become effective upon filing. From fiscal year 2005 through fiscal year 2007, the percentage of new agreements filed that qualified for the low market share exemption increased from 12% to 33%. Since 2007, the percentage of agreement filings that qualified for the exemption has fallen to 15% in 2009.

During the fiscal year, BTA analyzed the potential impacts of a number of significant agreement filings, including, for example, two discussion agreements (the *Port of Seattle/Terminal Operator Agreement* and the *Oakland MTO Agreement*) involving marine terminal operators in the Ports of Seattle and Oakland relating to the implementation of clean truck programs at the respective ports; a discussion agreement among heavy lift carriers (the *United States Supplemental Agreement to the Heavy Lift Club Agreement*) concerning commercial issues

facing operators in this niche market; an amendment to the primary pricing agreement in the inbound transpacific trades (the *Transpacific Stabilization Agreement*) seeking to add the authority to discuss vessel capacity in the trade; an amendment to a major MTO conference on the west coast (the *West Coast MTO Agreement*) seeking to expand its membership; and a cooperative working agreement dealing with implementation of the Ports of Los Angeles' and Long Beach's clean truck programs. In the face of concerns expressed by the Commission and shippers on the potential adverse impact of the *Transpacific Stabilization Agreement* and the *West Coast MTO Agreement* amendments, the parties thereto withdrew their proposed amendments. In addition to the foregoing, BTA analyzed a number of new or amended vessel-sharing agreements reflecting the restructuring of services in the face of falling demand for services resulting from the downturn in the global economy.

The Bureau maintains an agreements database and electronic library (e-library) containing up-to-date copies of effective agreements. The e-library gives the public direct access to copies of all effective and pending agreements, including marked copies of amendments, through the agency's website. The agreements library on the agency's website averaged 727 hits per month during fiscal year 2009.

In fiscal years 2010 and 2011, the Bureau will continue to monitor service contract, tariff and agreement activities, to prepare reports and economic analyses on developments and issues in key U.S. trades, to report on the activities of controlled carriers, and to respond to inquiries and informal complaints. The Bureau plans to consult with key stockholders to discuss parameters of the Commission's study on the repeal of the EU's block exemption for liner shipping conferences, proposed methodologies, industry interviews, and study milestones. Publication of a Notice of Inquiry to gather input and data from interested parties is expected at the end of fiscal year 2010.

The Bureau will also conduct research in support of the statutory standards and requirements of relevant Commission regulations and regulatory proposals, and assess the impact and effectiveness of current regulations. The Bureau plans to improve its agreements monitoring program to address such supply-chain and operational issues as port congestion, security, air pollution and environmental concerns that affect local communities and the industry.

BTA will continue to monitor developments on the EC's review of its block exemption regulations for consortia agreements between carriers [Commission Regulation No. 823/2000]. Similarly, the Bureau will monitor and assist other agency Offices in advising the Commission on proposals by other Government agencies, foreign governments, or multi-lateral organizations for regulatory change or research falling within the Commission's subject matter expertise.

The BTA will continue to assist the Commission's investigative and enforcement initiatives, and oversee international trade issues, such as unfair foreign shipping practices, and continue to participate with the U.S. Customs and Border Protection in development of the Automated Commercial Environmental/International Trade Data System (ACE/ITDS). The Bureau also will participate in the Maritime Data Working Group and the Interagency Action Team for the National Committee on the Marine Transportation System dealing with data collection and information management issues.

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BTA's support of formal proceedings during fiscal years 2010 and 2011 will depend on the number and subject matter of the proceedings initiated over the period. We anticipate a likely increase in workload in this area due to situations and practices that may have been caused or exacerbated by the severe global economic downturn which began in late 2008.

In fiscal year 2011, the Bureau has several program objectives that are either directly related to newly automated functions and procedures or that involve the improvement or enhancement of current automation. These program objectives must be accomplished in conjunction with the OIT. OAGR expects to enhance public access to agreements and to develop and implement procedures for the electronic filing of agreements.

OSCT plans to work with OIT to: (1) improve SERVCON, specifically to modify the Bureau's service contracts analysis tool (SERVCON CAT) to expand its use in investigations and for program and research purposes and ensure data filed in SERVCON is adequately indexed and searchable; (2) automate OSCT's FMC-1 program; and (3) automate the filing of SERVCON registration forms (FMC-78 and FMC-83) to simplify and expedite the public registration process.

OECA plans to: (1) expand the use of data derived from the Port Import Export Reporting Service's (PIERS) *Trade Intelligence* system in the review of agreements, and monitoring of agreement activities and trade conditions; and (2) implement measures to add value to the Bureau's data collections, including refining the data flags that distinguish between Ocean Freight Forwarders and NVOCC shipments and continuing to update records that identify ship flag, operator and owner.

### **Bureau of Certification and Licensing (BCL)**

BCL licenses U.S.-based OTIs, including OFFs and NVOCCs; receives surety bonds and processes registrations for foreign-based (unlicensed) NVOCCs; issues certificates to owners and operators of passenger vessels that have evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages or for death or injury to passengers and other persons; manages programs assuring financial responsibility of OTIs and PVOs by developing policies and guidelines, and analyzing financial documents; and develops and maintains information systems that support the Bureau's programs as well as those of other Commission entities.

The Bureau is composed of two Offices: the Office of Transportation Intermediaries, which has responsibility for reviewing and approving applications for OTI licenses, and maintaining and updating records about licensees; and the Office of Passenger Vessels and Information Processing, which has responsibility for reviewing applications for certificates of financial responsibility with respect to passenger vessels, managing all activities with respect to evidence of financial responsibility for OTIs and PVOs, and developing and maintaining all Bureau databases.



Federal Maritime Commission

<b>Federal Maritime Commission</b>				
<b>Bureau of Certification and Licensing</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	4.20	4.00	4.00
	<b>OPVIP</b>	5.17	6.00	6.00
	<b>OTI</b>	<u>7.75</u>	<u>9.00</u>	<u>9.00</u>
	<b>Total FTEs</b>	<b>17.12</b>	<b>19.00</b>	<b>19.00</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$1,990,612.60	\$2,119,921.54	\$2,305,140.29
	<b>Non-Personnel Expenses</b>	<u>\$567,843.11</u>	<u>\$637,576.34</u>	<u>\$644,413.97</u>
	<b>Total Cost</b>	<b>\$2,558,455.71</b>	<b>\$2,757,497.88</b>	<b>\$2,949,554.26</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.00</b>	<b>16.75</b>	<b>2.25</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
<b>\$0.00</b>	<b>\$2,490,515.04</b>	<b>\$459,039.22</b>		

<b>Federal Maritime Commission</b>				
<b>Bureau of Certification and Licensing</b>				
Office of the Director				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	4.20	4.00	4.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$623,930.32	\$594,970.49	\$632,208.37
	<b>Non-Personnel Expenses</b>	<u>\$567,843.11</u>	<u>\$637,576.34</u>	<u>\$644,413.97</u>
	<b>Total Cost</b>	<b>\$1,191,773.43</b>	<b>\$1,232,546.83</b>	<b>\$1,276,622.34</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.00</b>	<b>3.00</b>	<b>1.00</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$0.00</b>	<b>\$957,466.76</b>	<b>\$319,155.59</b>		

**Office of Passenger Vessels and Information Processing**

The Commission administers 46 U.S.C. 44102-44103, which requires evidence of financial responsibility for vessels which have berth or stateroom accommodations for 50 or more passengers and embark passengers at U.S. ports and territories. The program now encompasses 202 vessels and 43 operators, which have evidence of financial responsibility coverage in excess of \$319 million for nonperformance and over \$637 million for casualty. Certificates of performance cover financial responsibility for indemnification of passengers for nonperformance of transportation. This requirement helps prevent unscrupulous or financially weak operators from entering or operating from U.S. ports. Some potential operators with unfavorable histories may find it difficult or impossible to obtain a bond from a reputable surety company. The financial responsibility requirement ensures that liability will be met even after an operator has ceased operations and dissolved its corporate existence because the evidence of financial responsibility is still valid and available to claimants against the guarantor. Certificates of casualty are required to meet any liability that may occur for death or injury to passengers or other persons on voyages to or from U.S. ports in the amounts established by the statute. The certificates issued pursuant to this program are necessary for U.S. Customs and Border Protection’s clearance of thousands of passenger vessel sailings annually. During fiscal year 2009, the Commission approved and issued 14 casualty certificates and 18 performance certificates.

<b>Federal Maritime Commission</b>				
<b>Bureau of Certification and Licensing</b>				
Office of Passenger Vessels & Information Processing (OPVIP)				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>OPVIP</b>	5.17	6.00	6.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$594,419.55	\$656,917.91	\$703,203.16
	<b>Non-Personnel Expenses</b>	\$0.00	\$0.00	\$0.00
	<b>Total Cost</b>	<b>\$594,419.55</b>	<b>\$656,917.91</b>	<b>\$703,203.16</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.00</b>	<b>5.45</b>	<b>0.55</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$0.00</b>	<b>\$638,742.87</b>	<b>\$64,460.29</b>		

In conjunction with CADRS, the Bureau offers information and guidance to the cruising public throughout the year on passenger rights and obligations regarding monies paid to cruise lines that fail to perform voyages. Over the past few years, a number of cruise operators discontinued operations or filed for bankruptcy. When cruise lines fail to perform because of bankruptcies or other failures, the Commission works closely with the cruise line and the financial responsibility provider, if necessary, to facilitate the refund process. The public is kept informed through press releases posted on the Commission’s website and advice given to passengers who contact staff. During fiscal year 2009, three cruise operators under the PVO program ceased operation and none filed for bankruptcy. Staff continued to assist passenger vessel operators and financial responsibility providers to resolve passenger claims for several cancelled cruises.

The Bureau examines PVO activities and operations by monitoring current industry events and reviewing cruise lines’ financial records. Oversight of cruise line operators’ operations and activities ensures compliance with applicable statutes and Commission regulations. One component of the Bureau’s PVO monitoring program is to perform on-site reviews of PVOs’ financial responsibility. The on-site review confirms the passenger vessel operator’s compliance with the Commission’s reporting requirements relating to UPR and the appropriate amount of coverage required to ensure adequate financial responsibility.

During fiscal year 2009, BCL staff also completed updates to the April 15, 2004 memorandum, Docket No. 02-15, *Passenger Vessel Financial Responsibility*. The staff conducted two on-site reviews of cruise lines that established financial responsibility with surety bonds and guarantees; and modified its internal procedures to assist staff review of PVOs to ensure cruise line operators provide timely and accurate information with respect to the submission of reports and records.

In fiscal years 2010 and 2011, BCL will continue to examine issues raised in Docket No. 02-15 and continue to present new options, if available, to the Commission for consideration to ensure that PVOs' financial responsibility requirements for nonperformance provide appropriate protection for the public. BCL will continue research into the various means of ensuring adequate coverage and prepare additional mechanisms to seek input from the general public on the adequacy of current regulations. The Bureau intends to perform an on-site review of a cruise line's unearned passenger revenue each year; conduct quarterly reviews of the PVO monitoring files to ensure cruise line operators provide timely and accurate information with respect to the submission of reports and records; and make appropriate corrections in staff procedures and monitoring schedules.

### **Automated Database Systems**

During fiscal year 2009, BCL continued to modernize and expand the Regulated Persons Index (RPI), a database containing up-to-date records of licensed OTIs, ocean common carriers, and other entities. Among other data uses, the RPI is used to post on the Commission's website a list of compliant OTIs so that carriers and others can ascertain whether an OTI is properly licensed, bonded, and if required, has posted the location of its automated tariff. The OTI list also indicates whether an NVOCC has filed an optional rider for additional proof of NVOCC financial responsibility. Also, in conjunction with the OIT, BCL continues to work towards automating the PVO Application Form FMC-131, *Application for Certificate of Financial Responsibility*, and continues to work on a requirements analysis to facilitate the filing of PVO applications.

In fiscal years 2010 and 2011, BCL will continue to work with the OIT to initiate a redesign of the OTI list maintained on the Commission's website to increase accessibility to information, facilitate public search capability, and make it more interactive for users.

### **Office of Transportation Intermediaries**

OTIs are transportation middlemen for oceanborne cargo moving in the U.S. foreign trades and includes two types: NVOCCs and OFFs. NVOCCs are common carriers that do not operate the vessels by which transportation is provided. OFFs in the U.S. arrange for the transportation of cargo with a common carrier on behalf of shippers and process documents related to those shipments. Both NVOCCs and OFFs must be licensed by the Commission if they are located in the U.S. NVOCCs doing business in the U.S. foreign trades but located outside the U.S. (foreign NVOCCs) may choose to become licensed, but are not required to do so. Whether licensed or not, foreign NVOCCs must establish financial responsibility. All NVOCCs must publish electronic tariffs which contain the NVOCC's rates, charges, rules, and practices.

To become licensed by the Commission, an OTI must establish that it, through its Qualifying Individual (QI), has a minimum of three years of experience in ocean transportation intermediary activities in the U.S. and the necessary character to render OTI services as well as establish its financial responsibility by means of a bond, insurance, or other instrument. An investigation of the applicant's qualifications addresses such issues as accuracy of information provided in its application; integrity and financial responsibility of the applicant; character of the applicant and its QI; and length and nature of the QI's experience handling OTI duties.

Licensed OFFs must establish financial responsibility in the amount of \$50,000, and licensed NVOCCs, \$75,000. An additional \$10,000 of coverage is required for each unincorporated branch office in the United States other than the one used to establish a presence. If an OTI is a licensed NVOCC, it must file a Form FMC-1 and publish a tariff. Furthermore, non-U.S.-based NVOCCs that do not wish to be licensed must provide the Commission with proof of financial responsibility in the amount of \$150,000, file a Form FMC-1, and ensure a tariff is published at the site listed on the Form FMC-1. A non-U.S.-based NVOCC must list in its tariff an agent for service of process in the United States, and it must use a licensed OTI for any OTI services performed on its behalf in the United States. The financial instrument must be available to pay claims against the OTI arising from its transportation-related activities, any order of reparation assessed under the Shipping Act, and any judgments for damages against an OTI arising from its transportation-related activities under the Shipping Act.

During fiscal year 2009, the Commission received 482 new OTI applications and 277 amended applications, issued 414 OTI licenses and revoked 264 licenses. At the end of the fiscal year, 1,123 OFFs, 1,709 U.S. NVOCCs, 1,449 joint NVOCC/OFFs, and 51 foreign NVOCCs held active OTI licenses. An additional 1,068 foreign NVOCCs maintained proof of financial responsibility on file with the Commission, but chose not to be licensed. Overall, there was a gain of 96 licensed and/or bonded OTIs, representing a 2% increase from 5,304 OTIs in fiscal year 2008 to 5,400 in fiscal year 2009. U.S. NVOCCs may file riders to their existing NVOCC bonds to meet financial responsibility requirements imposed by the Chinese government. The Commission received 56 riders providing optional proof of financial responsibility for NVOCCs serving in the U.S.-China trade.

The Bureau continues to experience a backlog of applications. Much delay in processing has occurred because of incomplete submissions. The Commission is evaluating the licensing process in order to streamline its procedures, and to utilize technology to improve productivity.

<b>Federal Maritime Commission</b>				
<b>Bureau of Certification and Licensing</b>				
Office of Transportation Intermediaries				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Transportation Intermediaries</b>	7.75	9.00	9.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$772,262.73	\$868,033.14	\$969,728.76
	<b>Non-Personnel Expenses</b>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
	<b>Total Cost</b>	<b>\$772,262.73</b>	<b>\$868,033.14</b>	<b>\$969,728.76</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.00</b>	<b>8.30</b>	<b>0.70</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$0.00</b>	<b>\$894,305.41</b>	<b>\$75,423.35</b>		

In fiscal year 2009, the Bureau reviewed updates to the electronic filing of an automated Form FMC-18, *Application for a License as an Ocean Transportation Intermediary*, permitting filers to complete an OTI application on-line, scan and attach required documents, and submit the application electronically. The filing system incorporates significant security features for the purpose of protecting applicant data, and detecting and preventing unauthorized system intrusions. At the present time, approximately 90% of all incoming OTI applications received are from the electronic system.

In fiscal years 2010 and 2011, BCL will pursue revisions to its electronic application process, utilizing a new Enterprise Content Management system. Also, in fiscal year 2010, the Bureau will continue its outreach and programs to promote awareness of OTI requirements. In addition, BCL plans to evaluate its current rules and regulations regarding OTI licensing requirements to ensure that it is protecting the shipping public.

## **Bureau of Enforcement (BOE)**

The BOE has primary responsibility for ensuring compliance with shipping statutes administered by the Commission, principally the Shipping Act. The Bureau is actively involved in the Commission's outreach activities and interacts regularly with all segments of the ocean transportation industry. The Bureau is also active in maritime security and works closely with BCL to promote prompt licensing of all qualified OTIs, and with the Department of Homeland Security's (DHS) CBP to ensure submission of complete and accurate shipping data. Bureau attorneys serve as legal advisors to the Director of OPs and to other Bureaus and Offices, and may be designated as Investigative Officers in nonadjudicatory fact finding proceedings. Additionally, Bureau attorneys work closely with the Commission's investigatory personnel and participate as trial counsel in formal adjudicatory proceedings. BOE monitors all other formal Commission proceedings and relevant court actions in order to identify major regulatory issues and to advise the Director of OPs and the other Bureaus and Offices. The Bureau participates with other Bureaus and Offices in committees and task forces in the development of Commission policies, rules, and regulations, and also intervenes in formal complaint proceedings where appropriate.

With investigative personnel, the Bureau monitors and conducts investigations into the activities of ocean common carriers, OTIs (NVOCCs and OFFs), shippers, ports, MTOs, and other persons to ensure compliance with the statutes and regulations administered by the Commission, thereby providing maximum protection to all participants in the ocean transportation shipping industry. Activities include: (1) monitoring tariffs, service contracts and NSAs to determine compliance with applicable statutes and regulations; (2) reviewing of VOCC and OTI operations, including monitoring OTI compliance with bonding requirements and post-licensing and routine compliance checks of licensees to determine whether operations conform with regulatory requirements; and (3) monitoring operation of carrier and MTO agreements, including review of minutes and quarterly reports. Investigations are conducted into alleged violations of the full range of statutes and regulations administered by the Commission, including: illegal rebating, misdescriptions or misdeclarations of cargo, illegal or unfiled agreements, abuses of antitrust immunity, unlicensed OTI activity, untariffed cargo carriage, unbonded passenger vessel operations, unlawful MTO activity and various types of consumer abuses, such as failure of carriers or intermediaries to carry out transportation obligations resulting in cargo delays and financial losses for shippers. Through these activities, the enforcement program supports the agency's objectives of obtaining statutory compliance and ensuring equitable and efficient trading conditions and focusing enforcement efforts on activities which have market-distorting effects and those which impact most directly on the shipping public.

BOE prepares and serves notices of violations of the shipping statutes and Commission regulations and may compromise and settle civil penalty demands arising out of those violations. If settlement is not reached, Bureau attorneys act as prosecutors in formal Commission proceedings that may result in settlement or in the assessment of civil penalties. The Bureau also participates, in conjunction with other Bureaus, in special enforcement initiatives, fact finding investigations, ADR processes, rulemaking efforts, and homeland security issues.



During fiscal year 2009, 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 actions to address and seek compliance for market-distorting activities such as various forms of secret rebates and absorptions, misdescriptions of commodities and misdeclarations of measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded NVOCCs, and joint carrier activities outside the authority of existing agreements or pursuant to unfiled agreements. Particular emphasis was placed on industry service contracting activities to ensure fair trading conditions and protection of the public. Most of these malpractice investigations result in compromise settlements of civil penalties or are treated as compliance matters and closed without action. However, certain investigations of carriers and MTO practices have required the institution of formal adjudicatory proceedings in order to pursue remedies under the 1984 Act.

<b>Federal Maritime Commission</b>				
<b>Bureau of Enforcement</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	11.85	12.00	12.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$1,643,638.26	\$1,725,471.30	\$1,804,133.39
	<b>Non-Personnel Expenses</b>	<u>\$463,256.23</u>	<u>\$570,823.17</u>	<u>\$537,927.00</u>
	<b>Total Cost</b>	<b>\$2,106,894.49</b>	<b>\$2,296,294.47</b>	<b>\$2,342,060.39</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>2.08</b>	<b>9.42</b>	<b>0.50</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$405,957.13</b>	<b>\$1,838,517.41</b>	<b>\$97,585.85</b>		

A major investigation, completed late in fiscal year 2009, into the respective Clean Truck Programs of Los Angeles and Long Beach, CA, concerned the impact on the Ports' users and the compatibility of the respective programs with the Ports' responsibilities under the 1984 Act. The Bureau also continued its ongoing investigation of household goods movers allegedly operating as unlicensed OTIs, including investigation of the VOCCs and licensed NVOCCs that provide service to the alleged unlicensed movers.



In fiscal year 2009, the compliance audit program continued as a major focus. This program, conducted from headquarters primarily by mail and telephone, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also reviews entities holding themselves out as VOCCs, but with no indication of actual vessel operations. At the beginning of fiscal year 2009, 6 audits were pending. During the fiscal year, 98 audits were commenced, 99 audits were completed, and 5 were pending on September 30, 2009.

At the beginning of fiscal year 2009, 25 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 9 formal proceedings, and there were 93 matters pending which the Bureau was investigating or for which it was providing legal advice. During the fiscal year, 14 new enforcement actions were commenced; 19 were compromised and settled, administratively closed, or referred for formal proceedings; and 20 enforcement cases were pending resolution at fiscal year's end. Also, 4 formal proceedings were initiated; 5 formal proceedings were completed, and 8 were pending at the end of the fiscal year. Additionally, 47 matters involving investigation or legal advice were received during the fiscal year, 67 such matters were completed, and 73 were pending on September 30, 2009.

In fiscal years 2010 and 2011, the Bureau will continue to pursue market-distorting, fraudulent, and anticompetitive practices harmful to the industry and the public and to monitor U.S. trades, to the extent that resources permit. The Bureau will continue to pursue initiatives aimed at VOCCs and NVOCCs engaged in unfair service contracting practices, particularly those which permit improper entities to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws, and will continue to expand the OTI monitoring and audit programs. The enforcement and monitoring activities will include focusing on the unlawful operations of household goods carriers - both licensed and unlicensed - which have increasingly caused economic harm to individual consumers, as well as competitive injury to those carriers operating lawfully.

The Bureau will continue to review the operations of MTOs and, together with other Commission Bureaus and Offices, will monitor MTO-filed agreements to ensure compliance with the Shipping Act and Commission regulations. The Bureau will also continue its ongoing monitoring of NVOCC activity involving NSAs. Public outreach efforts will continue to educate maritime transportation users and providers with regard to FMC statutes and regulations, and the program will continue to improve participation in security issues as they relate to U.S. ocean commerce, specifically to include efforts to coordinate the use of available database systems with other agencies engaged in homeland security to improve identification of entities providing and utilizing maritime transportation services.

**Administration Program**

**Office of Administration (OA)**

<b>Federal Maritime Commission</b>				
<b>Administration</b>				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	3.00	3.93	4.00
	<b>Office of Information Technology</b>	6.98	7.00	8.00
	<b>Office of Human Resources</b>	4.42	4.77	4.40
	<b>Office of Financial Management</b>	5.00	5.00	5.00
	<b>Office of Management Services</b>	<u>5.20</u>	<u>5.00</u>	<u>5.00</u>
	<b>Total FTEs</b>	<b>24.60</b>	<b>25.70</b>	<b>26.40</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$2,819,573.02	\$3,085,704.27	\$3,370,977.53
	<b>Non-Personnel Expenses</b>	<u>\$2,730,324.77</u>	<u>\$1,808,877.73</u>	<u>\$1,751,470.30</u>
	<b>Total Cost</b>	<b>\$5,549,897.79</b>	<b>\$4,894,582.00</b>	<b>\$5,122,447.83</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>3.91</b>	<b>7.68</b>	<b>14.81</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$761,109.87</b>	<b>\$1,439,315.26</b>	<b>\$2,922,022.71</b>		

**Office of the Director**

The OA provides administrative support to the program operations of the Commission. OA interprets governmental policies and programs and administers these consistent with Federal guidelines, including those involving procurement, information technology, financial management and human resources. OA initiates recommendations, collaborating with other elements of the Commission as warranted, for long-range plans, new or revised policies and standards, and rules and regulations with respect to its program activities.

The Director is responsible for the administration and coordination of the:

- Office of Information Technology;
- Office of Human Resources;
- Office of Financial Management; and
- Office of Management Services.

Many functions and achievements of OA are reflected below in the narratives for these Offices.

<b>Federal Maritime Commission</b>				
<b>Administration</b>				
Office of the Director				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of the Director</b>	3.00	3.93	4.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$396,829.53	\$594,375.24	\$656,323.30
	<b>Non-Personnel Expenses</b>	<u>\$107,489.50</u>	<u>\$166,936.15</u>	<u>\$168,432.34</u>
	<b>Total Cost</b>	<b>\$504,319.03</b>	<b>\$761,311.39</b>	<b>\$824,755.64</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.60</b>	<b>1.00</b>	<b>2.40</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$123,713.35</b>	<b>\$206,188.91</b>	<b>\$494,853.38</b>		

The Director provides administrative guidance to the Offices of the Chairman and Commissioners, OS, OGC, OALJ and OPs, and administrative assistance to the OIG and OEEO. The Director is the FMC's Chief Acquisition Officer, Audit Follow-up and Management (Internal) Controls Official, Senior Agency Official for Privacy, and Forms Control Officer. The Director also represents the FMC as Principal Management Official on the Small Agency Council (SAC). As the Chief Financial Officer, the Director provides program oversight for the agency's budget and financial management responsibilities, and ensures agency compliance with the Financial Integrity Act, the Antideficiency Act, and the Debt Collection Improvement Act (DCIA) of 1996. OA staff act as the point of contact for the Small Business Administration's e-forms initiative.

The Deputy Director of Administration serves as the agency's Chief Information Officer (CIO). The CIO oversees the Office of Information Technology operations and activities administered under the Clinger-Cohen Act of 1996, as well as other applicable laws which prescribe responsibility for operating the program. The Deputy Director also serves as the agency's Competition Advocate and Records Management Officer.

During fiscal year 2009, the Office of the Director guided the agency's continuing efforts to enhance its IT program. The agency once again received an unqualified opinion in its FY 2009 Financial Statement Audit. The Office prepared the Federal Activities Inventory Reform Act report, and the PAR (which included the Management's Discussion & Analysis (MD&A) and the Federal Managers Financial Integrity Act report). The Office continued to direct the update of internal Commission issuances and Standard Operating Procedures for a variety of programs and activities, guided Commission efforts to comply with the GPEA and FISMA, and responded to Congressional inquiries. Additionally, the Office guided the development of the FY 2010 baseline documents to OMB and the FY 2010 President's Budget submission, and directed the audit of the Commission's FY 2009 Financial Statements. The Office also provided primary support for the OMB clearance and records management programs, and guided the further development of the Disaster Recovery Plan for the agency's COOP.

OA's key objectives for fiscal years 2010 and 2011 are: continuing to refine and enhance agency administrative programs and operations by reviewing, developing and/or updating internal Commission Orders and Standard Operating Procedures; assessing agency records disposition requirements in accordance with the National Archives and Records Administration guidelines; monitoring the accomplishment of agency performance goals, including the full implementation of Pay.gov for acceptance of electronic payments from the industry; initiating further information technology improvements, including the implementation of document/workflow and records management technology, upgrading information system technology (servers, desktop operating systems, laptops, and software), and the implementation of Voice over Internet Protocol (VoIP) and video conferencing; and working with senior managers to ensure effective strategic succession planning. OA will take the lead in ensuring an effective agency-wide computer security program, that the agency's financial management system receives an unqualified opinion in annual financial audits, and that the agency continues to comply fully with government-wide initiatives.

### **Office of Information Technology (OIT)**

OIT provides management support and services with respect to IT systems facilitating the program and administrative operations of the Commission, and thus is responsible for ensuring that the IT program is administered in a manner consistent with applicable rules, regulations and guidelines. OIT receives program guidance from the agency's CIO.

The Director, OIT serves as the Commission's Information Technology Officer, Telecommunications Manager, and Help Desk and Database Administration Manager, and oversees the IT security program. The OIT Director plans, coordinates, and facilitates the use of automated information systems.

<b>Federal Maritime Commission</b>				
<b>Administration</b>				
Office of Information Technology				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of Information Technology</b>	6.98	7.00	8.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$847,051.31	\$876,912.29	\$1,026,268.61
	<b>Non-Personnel Expenses</b>	<u>\$2,164,917.10</u>	<u>\$1,110,410.62</u>	<u>\$1,060,038.99</u>
	<b>Total Cost</b>	<b>\$3,011,968.41</b>	<b>\$1,987,322.91</b>	<b>\$2,086,307.60</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>1.20</b>	<b>2.00</b>	<b>4.80</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$312,946.14</b>	<b>\$521,576.90</b>	<b>\$1,251,784.56</b>		

During fiscal year 2009, significant OIT activities included the following: (1) completed renovation of the Data Center; (2) continuously upgraded the Form FMC-18 application system; (3) converted the programming language for all web-based applications to .NET; (4) upgraded data lines; (5) set up and configured new telecommunications equipment to accommodate the VoIP systems in development; (6) updated policies and procedures associated with technical assistance provided to staff and changes in the IT infrastructure; (7) administered the agency's IT technical support and assistance contracts; (8) continued to work with Verizon and General Services Administration (GSA) to upgrade the FMC's phone system to VoIP under the new NETWORKX contract; (9) furnished agency-wide advice and coordination on electronic records; (10) reviewed and completed security assessments for all FMC systems; (11) coordinated and monitored IT Security Awareness training; (12) improved agency compliance with FISMA and other Federal IT initiatives; (13) upgraded the COOP systems located in Germantown, MD; (15) coordinated with OMS to initiate a technology upgrade of the Commission's Hearing Room, conference areas and executive Offices; and (16) continued a study of current databases to begin the process of creating enterprise-wide interconnection between all applicable FMC databases.

For fiscal years 2010 and 2011, major initiatives include plans to: (1) work toward becoming fully compliant with FISMA requirements; (2) complete implementation of VoIP; (3) create an FMC Enterprise Architecture Plan; (4) subject to adequate funding, upgrade the existing desktop

operating system, software applications and equipment; (5) upgrade the Virtual Private Network security infrastructure; (6) incorporate the Pay.gov initiative; (7) subject to adequate funding, complete the technology upgrade of the Commission’s Hearing Room and conference rooms; and (8) upgrade the FMC’s COOP site to be a mirror image of HQ.

To pursue IT initiatives to comply with governing statutes and regulations, as well as evaluating use of IT to increase productivity, we are requesting an additional IT position. We believe enhanced information systems are critical to identification of regulated entities, to information sharing with our counterparts at CBP and other Federal agencies, and to permitting our ARs, BOE and consumer affairs representatives timely and comprehensive access to data needed to address OTI practices that abuse or defraud the shipping public.

**Office of Human Resources (OHR)**

OHR plans and administers a complete human resources management program including: recruitment and placement, position classification and pay administration, occupational safety and health, employee assistance, workforce discipline, performance management and incentive awards, employee benefits, retirement, employee development and training, and personnel security.

<b>Federal Maritime Commission</b>				
<b>Administration</b>				
Office of Human Resources				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of Human Resources</b>	4.42	4.77	4.40
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$473,221.24	\$485,949.13	\$507,099.89
	<b>Non-Personnel Expenses</b>	<u>\$129,516.26</u>	<u>\$206,297.28</u>	<u>\$197,390.20</u>
	<b>Total Cost</b>	<b>\$602,737.50</b>	<b>\$692,246.41</b>	<b>\$704,490.09</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.66</b>	<b>1.23</b>	<b>2.51</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$105,673.52</b>	<b>\$196,937.00</b>	<b>\$401,879.57</b>		



Major accomplishments during fiscal year 2009 include: (1) monitored activities of the agency's payroll/personnel service provider, the National Finance Center (NFC), and worked with OA staff to ensure security, continuity and accuracy of payroll and personnel services; (2) coordinated with senior management to review and evaluate leadership development programs and activities to address succession planning; (3) conducted a comprehensive training program in accordance with the agency's budget and strategic and performance plans, promoting e-learning and on-line training opportunities, continuing the college tuition reimbursement program, ensuring training for new employees on the No Fear Act, and participating in the SAC Training Program; (4) planned, implemented, and promoted new programs for Personal Financial Literacy Education and Volunteer/Community Service Awareness and issued newsletters highlighting appropriate information and activities; (5) conducted a comprehensive personnel and information security program, including initiating and adjudicating security investigations for new and reinvestigated employees, and collaborating with the CBP to gain access to the ACE/ITDS; (6) coordinated with OPM regarding results from the Federal Human Capital Survey, worked with senior management to identify areas needing improvement after analyzing results, preparing interpretation and trend analysis, and working with the Partnership for Public Service in connection with *Best Place to Work Awards*; (7) implemented provisions of the Federal Workforce Flexibility Act and finalized the agency's Human Capital Plan, Workforce Plan, Accountability, and Succession Management Plans in accordance with OPM's Human Capital Assessment and Accountability Framework; (8) conducted a comprehensive performance management and incentive awards program; (9) conducted a comprehensive recruitment program; (10) coordinated with OPM, OMB, and others on human capital initiatives related to the President's Management Agenda; (11) maintained the partnership for acquisition of assistive devices through the Department of Defense's Computer/Electronic Accommodations Program; (12) continued to work with the Small Agency Human Resources Consortium, OPM and Northrop Grumman Integic officials to complete program activities to implement electronic Official Personnel Folder (eOPF); (13) promoted the Preventive Health and Awareness Program and OPM's *Healthier Feds* initiatives, publicized and hosted wellness seminars sponsored by the Employee Assistance and Federal Occupational Health Programs; (14) in concert with OPM's hiring reform initiative, developed revised vacancy announcement template to enhance our recruitment efforts; (15) enhanced workplace flexibilities; (16) provided recommendations to OPM regarding the agency's work/life program and best practices; (17) implemented pertinent provisions of the IG Reform Act of 2008; (18) participated in the planning and implementation of the Automatic External Defibrillator (AED) program and full-time clinical services; (19) managed and conducted employee benefit and charitable contributions programs and Open Seasons, such as the Combined Federal Campaign, Long-Term Care Insurance Program, Flexible Spending Accounts, the annual Benefits Open Season and FMC Health Fair, etc.; (20) continued implementation of the Enterprise Human Resources Integration Project, and administered other e-Gov initiatives such as Recruitment One-Stop, e-payroll, e-clearances, and e-learning; (21) conducted a proactive retirement program that included computing benefits, providing retirement seminars, related training and one-on-one counseling, and processing all retirements; (22) coordinated with other administrative units and the GSA to implement pertinent provisions of Homeland Security Presidential Directive 12 (HSPD-12) and meet OMB requirements related to issuance of Federal employee credentials; (23) evaluated contractor performance in the area of classification/position management; and (24) worked with contractors to facilitate agency-wide implementation of the automated training data management reporting system required by OPM.

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In fiscal years 2010 and 2011, OHR plans to: (1) advise agency management and staff on all human resources matters and maintain a sound and progressive human resources program; (2) implement pertinent portions of the agency's strategic, training and related performance plans, particularly performance goals related to the management of human resources; (3) explore and implement simplification, flexibility, and accountability of human resources management programs, including investigating automated solutions to address program requirements; (4) partner with agency officials in concert with the President's goal to build a transparent, high-performance government specifically with respect to Federal hiring reform and improving employee satisfaction and wellness; (5) continue with eOPF implementation and conversion of HR records to electronic format to address program requirements and meet agency business needs; (6) explore automated solutions or pilot programs for evaluation of training; (7) monitor the processes and database modernization activities of the NFC in conjunction with the government-wide e-payroll initiative and ensure timely and accurate payroll and personnel services; and (8) assess progress in achieving human capital goals as outlined in the agency's Human Capital, Workforce, Succession Management and Accountability Plans.

### **Office of Financial Management (OFM)**

OFM administers the Commission's financial management program and is responsible for offering guidance on optimal use of the Commission's fiscal resources. OFM's main responsibilities are to: (1) produce, submit and support annual budget justifications and estimates to OMB and the Congress; (2) execute annual budgets to ensure that appropriated funds are properly expended; (3) review audited financial reports; (4) administer the control system over workyears of employment; (5) collect and deposit all fees and forfeitures due the Commission and pursue collections of debts; (6) process accounts payable documents; (7) verify financial, accounting and payroll reports generated by the agency's fiscal services agents; (8) process travel orders and vouchers; and (9) manage the Commission's Travel Charge Card and Cash Management Programs.

The Commission has an interagency agreement (IAG) with the Bureau of Public Debt (BPD) to provide travel, procurement, and financial reporting. OFM serves as the Commission's primary contact with BPD and verifies all accounting transactions, oversees the timely submission of quarterly financial statements to OMB, annual and semiannual report submissions to the U.S. Treasury and works to ensure that an unqualified opinion is received on the annual financial statement audit. The NFC provides the Commission with payroll services via an IAG. OFM serves as the primary contact with NFC regarding time card transmission and verifies all payroll disbursement costs. NFC transmits documentation of payroll costs directly to BPD for inclusion in the agency's accounting records.



<b>Federal Maritime Commission</b>				
<b>Administration</b>				
Office of Financial Management				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of Financial Management</b>	5.00	5.00	5.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$515,879.84	\$535,892.85	\$567,338.46
	<b>Non-Personnel Expenses</b>	<u>\$134,298.18</u>	<u>\$152,303.46</u>	<u>\$158,392.08</u>
	<b>Total Cost</b>	<b>\$650,178.02</b>	<b>\$688,196.31</b>	<b>\$725,730.54</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.70</b>	<b>2.20</b>	<b>2.10</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$101,602.27</b>	<b>\$319,321.45</b>	<b>\$304,806.82</b>		

During fiscal year 2009, OFM’s important accomplishments include the following: (1) managed the Commission’s Cash Management Program and collected and deposited \$1,130,000 to the U.S. Treasury from fines and penalty collections, publications, reproductions, and user fees; (2) coordinated and prepared budget justifications and estimates for the FY 2010 Congressional budget and FY 2011 OMB budget; (3) prepared required external reports; (4) prepared monthly status reports on budget matters; (5) revised procedures for forecasting the cost of performance goals; (6) pursued delinquent receivables and referred applicable debts to the U.S. Treasury for collection; (7) worked with BPD staff and independent auditors regarding the audits of the fiscal years 2008 and 2009 Financial Statements (an unqualified opinion was received for FY 2008 and FY 2009); (8) worked with the OA to finalize FMC’s 2008 MD&A and 2008 PAR and to initiate work on the 2009 versions of those documents; (9) worked with OA to complete the 2009 FAIR Act Report and post results to OMB’s MAX database; (10) updated the agency’s internal control forms (Form FMC-29 and Form FMC-30) in compliance with OMB A-123; (11) assisted in the preparation of materials requested by the Congressional Oversight Subcommittee; (14) prepared detailed responses to Questions for the Record submitted by the House Committee on Appropriations, Subcommittee on Transportation, and Urban Development, and Related Agencies; (15) updated a number of Commission Orders and OA procedural documents; (16) participated in the Commission’s Pay.gov implementation team; and (17) developed a new methodology for calculating user fees.

Goals for fiscal years 2010 and 2011 include: (1) facilitating implementation of Pay.gov for acceptance of electronic payments from the industry; (2) continuing to pursue initiatives leading to economy and efficiency in budget and financial operations; (3) improving the Cash Management Program and updating relevant Standard Operating Procedures; and (4) developing detailed training documents for the Commission's Travel Charge Card Program to improve cardholders' knowledge of appropriate use and responsibilities.

### **Office of Management Services (OMS)**

OMS is responsible for procuring and furnishing all services, office equipment and supplies necessary to support the day-to-day operations and performance goals of the Commission. To accomplish this, OMS administers a variety of management service functions, including: (1) administering procurement and contracting; (2) controlling and administering the Commission's property utilization, maintenance, inventory and disposition programs; (3) planning and administering programs for improvement of the workplace environment and other space utilization operations for all Commission locations, including office space and provision of office furnishings; (4) managing the receipt, storage, distribution and inventory of all supplies, forms and accessories; (5) coordinating and fulfilling all printing, copying, and graphic service requirements; (6) coordinating the use of the headquarters (HQ) physical facilities with respect to maintenance, security, and parking; (7) conducting safety inspections and coordinating the emergency planning and evacuation plan; and (8) directing the Commission's participation, development and goal-setting efforts under the Small Business Act.

During fiscal year 2009, OMS: (1) provided procurement information to the incoming administration's Transition Team on acquisitions made during fiscal year 2008; (2) coordinated and arranged new formal credentials for the Commissioners, agency executives, BOE personnel, and the ARs; (3) updated and/or established procedures for processing incoming/outgoing mail; the ordering, replenishing, and issuance of routinely used office supplies and disposal of excess and/or surplus property; (4) awarded a contract to bridge the Choicepoint Services used by BOE and BCL, while BPD completed the acquisition process to award new contract with option years, and provided guidance in preparing the sole-source justification to continue using Choicepoint Services; (5) worked with OHR and Management Concepts to host a mandatory training course, *Contracting Officer's Representative*, in accordance with the Office of Federal Procurement Policy's new procurement regulations; (6) arranged for a vehicle for the new AR in New Orleans; (7) arranged for disposal of microfiche files and the quarterly shredding and disposal of excess documents and material; (8) coordinated with the contracting officer/subject matter expert of the Federal Protective Service for the HQ building security force contract on their bi-annual security assessment of the building, and provided signature concurrence of the assessment as the Chairman of the Building Security Committee (BSC); (9) coordinated with the other members of the BSC to arrange to have the building's Health Services Unit expanded from half-day to full-day, eight-hour service; (10) arranged for the Houston AR to have access to a health services facility for use as needed; (11) traveled to Seattle to conduct site visits of the available GSA properties and coordinated the relocation of the Seattle Office to Tacoma; (12) coordinated with

OIT and GSA on the renovation of the Data Center in OIT, the media upgrades in the HQ Hearing Room, and for the installation of monitors in the executives' offices and select conference rooms; (13) developed cost analysis and received approval to increase the agency's Transit Subsidy Benefit program level of distribution from \$115 per month to \$230 as maximum allowable assistance; (14) hosted on-site procurement overview meeting with BPD officials that provide direct support to OMS and other agency activities, for discussions with individual activities on their specific acquisition needs for fiscal year 2009 and beyond; and (15) arranged for the installation of AED Units at HQ and training of 27 HQ personnel on the proper use of an AED Unit, including a formal meeting with the Federal Occupational Health's AED Program officials on final implementation steps for this important new agency program.

<b>Federal Maritime Commission</b>				
<b>Administration</b>				
Office of Management Services				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Office of Management Services</b>	5.20	5.00	5.00
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$586,591.10	\$592,574.76	\$613,947.27
	<b>Non-Personnel Expenses</b>	<u>\$194,103.73</u>	<u>\$172,930.22</u>	<u>\$167,216.69</u>
	<b>Total Cost</b>	<b>\$780,694.83</b>	<b>\$765,504.98</b>	<b>\$781,163.96</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>0.75</b>	<b>1.25</b>	<b>3.00</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
<b>Strategic Goal 1</b>	<b>Strategic Goal 2</b>	<b>Strategic Goal 3</b>		
<b>\$117,174.59</b>	<b>\$195,290.99</b>	<b>\$468,698.38</b>		

In fiscal years 2010 and 2011, OMS' objectives include: (1) continuing to work with GSA and other tenant agencies at our HQ and field locations to upgrade and/or improve security measures and emergency preparedness; (2) in conjunction with the agency's other administrative offices, continuing to research methods and practices for the enhancement and improvement of support services; (3) continuing to work with BPD on streamlining the FMC's acquisition and procurement programs; and (4) continuing to provide advice and assistance regarding innovative support-service approaches to FMC activities.

## FY 2011 Strategic Goals

<b>Federal Maritime Commission</b>				
<b>Federal Maritime Commission</b>				
Executive Summary				
		FY 2009 Actual	FY 2010 Enacted	FY 2011 Request
<b>FTE:</b>	<b>Headquarters &amp; Field</b>	<b>119.56</b>	<b>128.72</b>	<b>132.20</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$15,414,639.10	\$17,105,000.00	\$18,515,000.00
	<b>Non-Personnel Expenses</b>	<u>\$7,319,076.68</u>	<u>\$7,030,000.00</u>	<u>\$6,983,000.00</u>
	<b>Total Cost</b>	<b>\$22,733,715.78</b>	<b>\$24,135,000.00</b>	<b>\$25,498,000.00</b>
<b>FY 2011 FTE by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
Maintain an efficient and competitive international ocean transportation system	Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes	Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>24.96</b>	<b>76.67</b>	<b>30.57</b>		
<b>FY 2011 Cost by FMC Strategic Goal</b>				
Strategic Goal 1	Strategic Goal 2	Strategic Goal 3		
<b>\$4,742,606.45</b>	<b>\$14,365,838.18</b>	<b>\$6,389,555.37</b>		

### Factors Affecting the Achievement of Goals

The FMC is a small agency that has established considerable in-house expertise in the legal, economic and organizational aspects of international liner shipping and the intermodal movement of ocean cargo. That expertise allows the FMC to effectively pursue its goals of maintaining a competitive international ocean transportation system and protecting the public from unlawful, unfair and deceptive practices efficiently at a very modest cost to the taxpayer and with a minimum regulatory burden on stakeholder industries.

To continue to accomplish its goals, the agency will need to maintain its relevant expertise through the recruitment, training and retention of highly qualified attorneys, economists, industry specialists, and information technology experts. The importance of the recruitment and retention issue is likely to increase as the agency's experienced personnel reach retirement age, and in the face of competition from other Federal agencies seeking to replace their retiring personnel.

Expanding and enhancing the use of IT is one way that the FMC is able to improve its efficiencies. The increasing importance of IT results not only from its contribution to the

agency's ability to collect and process information more efficiently and accurately, but also because of the agency's need to keep up with the electronic business practices of the industries it regulates. Greater use of IT technology also helps make many of the aspects of licensing, certification and information filing simpler and easier to accomplish for the agency's stakeholders. It is critical to the maintenance and effective use of various key agency databases.

The security of agency databases, confidential business reports and associated documents filed with the FMC has received increasing attention in recent years. Enhanced and extended applications of information technologies helps ensure that security.

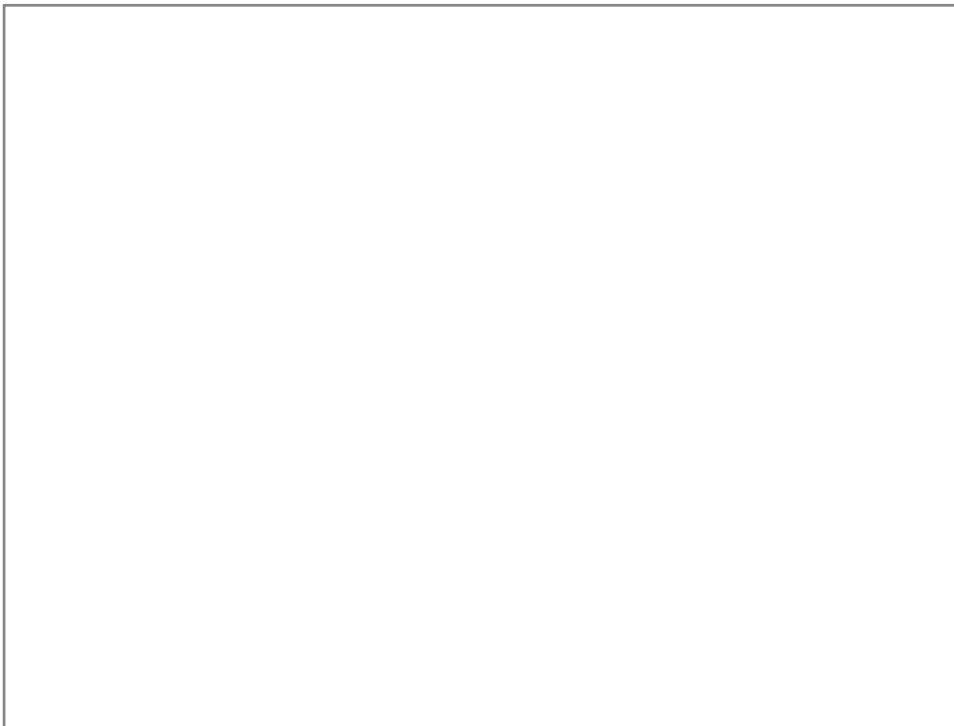
Although the FMC primarily regulates international ocean liner transportation, it is also involved, through its regulation of MTOs, with aspects of the intermodal movement of ocean cargo in the U.S. In addition, foreign-based OTIs are subject to statutory bonding requirements under FMC jurisdiction. To the extent that there are changes in the regulatory treatment of international liner operations by foreign governments, as was the case in Europe beginning in late 2008, the FMC will need to conduct research to determine the likely effect of such changes on U.S. trades. Over time, regulatory changes in other regions could also provide an impetus for a review of U.S. statutes or regulations on liner shipping. Consequently, FMC analyses of possible future proposals for statutory revisions may be required.

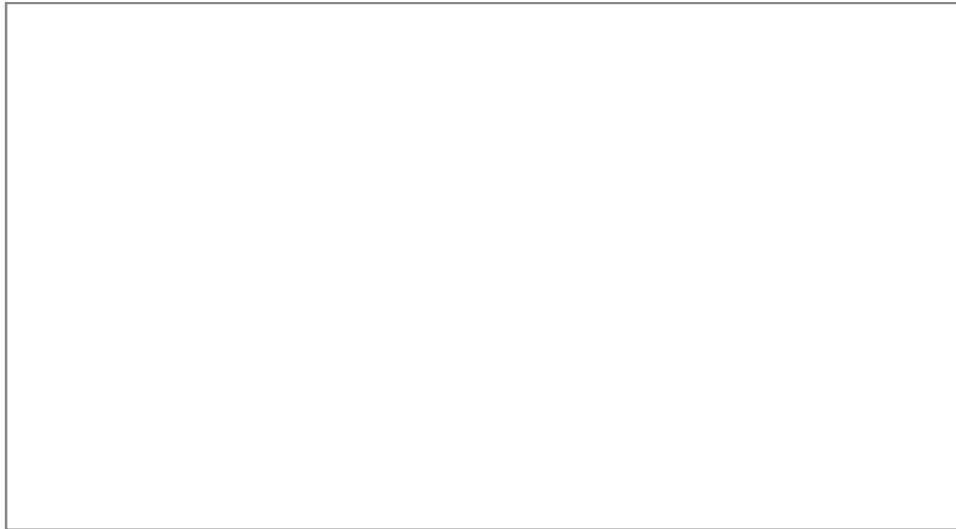
Finally, in recent years the FMC has witnessed the filing of new types of agreements, especially marine terminal agreements, which address nontraditional issues such as traffic congestion, environmental protection, terminal operational efficiencies, and infrastructure funding. These nontraditional agreements tend to involve industries (drayage trucking and rail service), operations (pooling of chassis), and issues (air pollution, public health, infrastructure finance) which require the development by agency staff of additional information sources and areas of expertise. Not infrequently, these nontraditional agreements have potentially significant pricing and service consequences. To the extent that the filing of nontraditional agreements increase in coming years, which seems to be the likely trend, they will continue to weigh heavily on the agency's limited resources.

**Strategic Goal Number 1:**

*Maintain an efficient and competitive international ocean transportation system.*

The Commission is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States pursuant to the provisions of the Shipping Act. A stated policy objective of the Shipping Act is “to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.” The Commission’s oversight of carrier and terminal operator antitrust immunity, as part of a non-discriminatory regulatory process, works to provide an efficient and economic transportation system in the ocean commerce of the United States. In addition, the Commission addresses unfavorable conditions affecting U.S. carriers in U.S. oceanborne trades when such conditions do not exist for foreign carriers.





**Objective 1:**

***Identify and take actions to address substantially anticompetitive conduct or unfavorable trade conditions in U.S. trades.***

The FMC is charged with protecting the shipping public, and ultimately American exporters and consumers, from possible abuse of the limited antitrust immunity granted by Congress to international liner carriers and domestic marine terminal operators under the Shipping Act. In addition, the FMC is responsible, under the Foreign Shipping Practices Act of 1988, for investigating whether laws, rules, regulations or practices of foreign governments, or the practices of foreign carriers result in the existence of unfavorable conditions in U.S. trades.

The Shipping Act requires that VOCCs and MTOs that benefit from antitrust immunity by agreeing among themselves file copies of those agreements with the FMC. FMC staff review these proposed agreements when they are initially filed, and before they take effect. The FMC is authorized, pursuant to section 6(g) of the Shipping Act, to seek appropriate injunctive relief against any agreement which is likely to result in a significant reduction in competition of the sort that could be expected to unreasonably raise transportation costs or reduce transportation service.

The Shipping Act and implementing regulations also authorize the FMC to require that agreement parties: (a) provide accompanying information needed to assess certain categories of agreements upon request; (b) file certain standard types of reports -- including quarterly economic data and/or minutes of meetings held by the agreement parties -- depending on the authorities sought in the agreement; and (c) submit special informational reports, if the FMC requests them, once the agreement goes into effect. These reporting requirements, and the economic data and information about agreement activities they provide, allow the FMC to

initially evaluate, and continue to monitor on an on-going basis, the conduct of the parties to VOCC and MTO agreements with limited antitrust immunity.

Under the FSPA the Commission can address adverse conditions affecting U.S. carriers in the U.S. oceanborne trades, when such conditions do not exist for foreign carriers or others providing maritime or maritime-related services in the U.S. Section 9 of the Shipping Act also charges the Commission with regulating the rates, charges, and rules of government-owned or –controlled carriers to ensure that they are just and reasonable.

<b>Strategic Goal 1:</b> Maintain an efficient and competitive international ocean transportation system		
<b>Objective 1:</b> Identify and take action to address substantially anticompetitive conduct or unfavorable trade conditions in U.S. trades		
<b>Performance Measure 1:</b> Percentage share of total U.S. international oceanborne trade moved by containership, as an indicator of liner efficiency		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
18.00%	18.50%	19.00%

**Strategy for accomplishing Strategic Goal #1, Objective #1**

- Review initial agreements and amendments, including any additional information requested by the FMC, to determine the likelihood that the agreement parties could engage in substantially anticompetitive conduct with respect to transportation costs or services.
- Review, on a regular, on-going basis, the data and information provided in standard reports and special reporting measures to assess the existence or likelihood of substantially anticompetitive conduct or unfavorable trade conditions.
- Initiate meetings with representatives of the FMC’s various stakeholder industries to help determine whether anticompetitive behavior or unfavorable trade conditions exist in U.S. trades.
- Conduct research studies on current competition issues with respect to U.S. trades.
- Actively monitor for and record the presence of all foreign-controlled carriers in U.S. trades, and regularly review their pricing practices.
- Obtain information via inquiries and/or complaints about conduct or conditions that impede the efficient movement of cargo.



- Assure competitive conditions in the U.S. foreign oceanborne trades by working with agreement parties on an informal basis to negotiate changes in agreements that raise competitive concerns.
- Preserve competition in ocean transportation by seeking appropriate injunctive relief under section 6 of the Shipping Act for agreements likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost.
- Address disruptions in the ocean transportation marketplace by investigating carrier and marine terminal operator violations of the Shipping Act.
- Take action under the FSPA to address adverse conditions affecting U.S. carriers in the U.S. oceanborne trades, when such conditions do not exist for foreign carriers or others providing maritime or maritime-related services in the U.S.
- Make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade.
- Ensure timely action on formal proceedings undertaken to protect competition.
- Maintain and keep up-to-date an electronic library, accessible from the FMC's website, of agreement documents to allow interested parties to easily search for and download those documents.

## Strategic Goal Number 2:

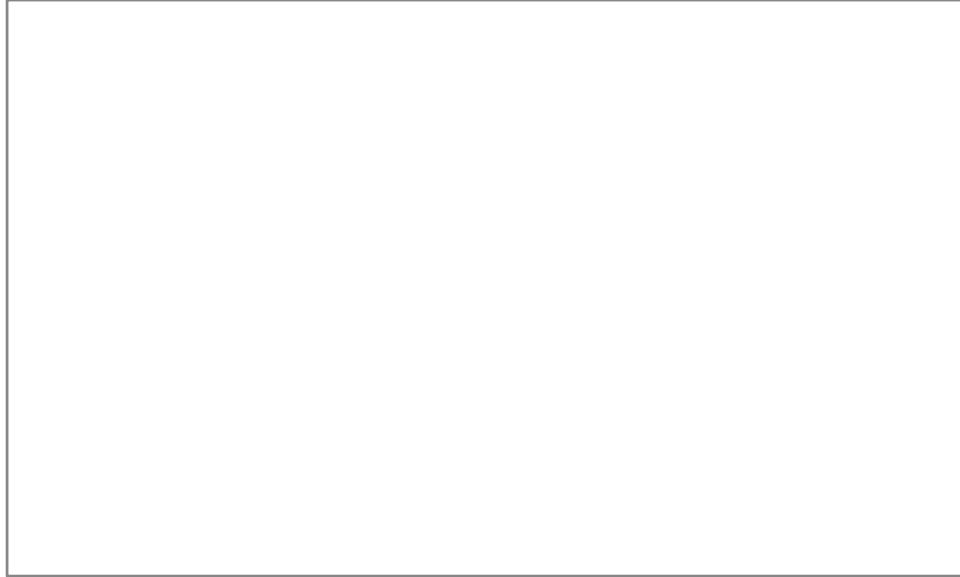
*Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.*

The FMC has jurisdiction over activities of ocean carriers and marine terminal operators in a variety of their commercial activities in international ocean commerce. The FMC has a wide variety of responsibilities in protecting the shipping public from financial harm.

Those responsibilities include the licensing of ocean transportation intermediaries that serve U.S. trades; assisting the public in the resolution of informal complaints related to the shipment of goods or to passenger vessel cruises; the identification and prosecution of unreasonable or unjust practices by carrier or marine terminals; and the investigation and satisfaction of formal complaints alleging violations of the Shipping Act. To carry out its broad mission, the FMC uses various means including monitoring, investigation, education, enforcement, and *ombuds* services.

The Commission, and its regional ARs, also have a role in the education of the public and of industry groups involved in U.S. international trade with respect to their rights and/or responsibilities under the Shipping Act – including informing them of available Commission resources which might be of use to them.





**Objective 1:**

*Identify and take action to end unlawful, unfair and deceptive practices.*

The FMC is responsible for ensuring that individual carriers and marine terminal operators, as well as those permitted by agreement to act in concert, treat shippers and other members of the shipping public fairly by not engaging in prohibited acts as set out in the Shipping Act. In the effort to identify such practices, the FMC maintains a visible presence amongst regulated entities, collects intelligence in a variety of ways and exchanges intelligence with other regulatory and law enforcement agencies.

In order to ensure compliance with laws and regulations under the jurisdiction of the FMC, various formal and informal actions may be taken by the Commission. Formal investigations are initiated when violations are discovered, though often the Commission enters into settlement agreements ending violative activities.

<b>Strategic Goal 2:</b>		
Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes		
<b>Objective 1:</b>		
Identify and take action to address substantially anticompetitive conduct or unfavorable trade conditions in U.S. trades		
<b>Performance Measure 1:</b> Percentage of enforcement actions taken under the Shipping Act of 1984 successfully resolved through favorable judgment, settlement, issuance of default judgment or compliance letter or notice		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
70.00%	72.00%	74.00%

### **Strategy for accomplishing Strategic Goal #2, Objective #1**

- Gather intelligence through visible and accessible presence in the regulated community in order to identify unlicensed OTIs and other violations.
- Monitor advertising in print, television, radio and online to identify illegal practices.
- Gather information related to potential unlicensed OTIs.
- Receive and respond to complaints regarding egregious violations and practices.
- Identify subjects who offer, advertise or provide passage on vessels having berths or staterooms to accommodate 50 or more passengers and have not met FMC financial requirements.
- Audit ocean carriers and OTIs based upon information received and on a random basis.
- Exchange information and liaise with other Federal, state and local investigative and regulatory agencies and Bureaus.
- Review tariffs for accessibility and accuracy.
- Investigate allegations of unlawful, unfair and deceptive practices.
- Efficiently prosecute alleged violations of the Shipping Act.
- Reach voluntary agreement with alleged violators to cease unlawful, unfair and deceptive practices.
- Respond to inquiries regarding complaint history of transportation providers and advise consumers of means to protect themselves.

### **Objective 2:**

#### ***Prevent public harm through licensing and financial responsibility requirements.***

The FMC licenses and regulates OTIs, including ocean freight forwarders and NVOCCs, and ensures that OTIs have sufficient financial responsibility. As well, the FMC issues certificates to owners and operators of PVOs that have evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages and for death or injury to passengers and other persons.

<b>Strategic Goal 2:</b>		
Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes		
<b>Objective 2:</b>		
Prevent public harm through licensing and financial responsibility requirements		
<b>Performance Measure 1:</b> Percentage of decisions completed on OTI license applications rendered within 90 business days, facilitating lawful operation of OTIs with the appropriate character requirements		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
55%	57.00%	59.00%

**Strategy for accomplishing Strategic Goal #2, Objective #2**

- License OTIs with the requisite character, experience and financial responsibility.
- Issue PVO certificates to cruise line operators that have met regulatory requirements for proof of financial responsibility.
- Monitor PVO unearned passenger revenue reports and conduct on-site review of PVOs’ UPR receipts.
- Review and update OTI bonds and coverage amounts.

**Objective 3:**

*Enhance public awareness of agency resources, remedies and regulatory requirements through education and outreach.*

Protection of the public requires knowledge on the part of regulated parties and users of their services as to FMC regulatory requirements. As well, the public needs to be well informed of the services offered by the FMC and the remedies available in the event of noncompliance, injury or unresolved disputes.

<b>Strategic Goal 2:</b>		
Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes		
<b>Objective 3:</b>		
Enhance public awareness of agency resources, remedies and regulatory requirements through education and outreach		
<b>Performance Measure 1:</b> Percentage of attendees at agency-sponsored outreach presentations that rate the program as "Useful" in their compliance efforts		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
70.00%	75.00%	80.00%

**Strategy for accomplishing Strategic Goal #2, Objective #3**

- Maintain an accessible presence in local regulated communities.
- Proactively educate regulated parties of regulatory requirements through educational presentations.
- Maintain VOCC and NVOCC tariff location information on the agency website.
- Emphasize OTI requirements to new licensees by letter.
- Promote awareness of FMC licensing and financial responsibility requirements by conference participation and seminars.
- Make available to the public key documents in all Commission formal proceedings through the Commission website.
- Create and produce brochures to educate industry and public about FMC requirements and services.
- Promote general awareness of resources available through the Commission’s website.
- Continuously expand and update information available to the public through the website, including the list of licensed OTIs.

**Objective 4:**

*Impartially resolve international shipping disputes through alternative dispute resolution and adjudication.*

The Commission has several means by which the public or entities in the shipping industry may seek resolution of disputes or complaints. The Commission provides *ombuds* services to assist parties in resolving complaints informally through its Office of Consumer Affairs and Dispute Resolution and its ARs. Formal complaints of alleged Shipping Act violations may be filed for adjudication by an ALJ. Parties may seek the assistance of a trained neutral at any stage in a formal proceeding or in the first instance for resolution using ADR processes.

<b>Strategic Goal 2:</b>		
Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes		
<b>Objective 4:</b>		
Impartially resolve international shipping disputes through alternative dispute resolution and adjudication		
<b>Performance Measure 1:</b> Number of cases opened and closed each fiscal year using <i>ombuds</i> or ADR services assisting consumers to recover goods or funds		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
550	625	700

**Strategy for accomplishing Strategic Goal #2, Objective #4**

- Provide *ombuds* services to informally resolve passenger vessel, household goods and other shipper complaints.
- Encourage the use of and provide ADR services to parties who request the services of a trained neutral in resolving disputes and shipping problems that affect international ocean shipping.
- Adjudicate disputes under the jurisdiction of the agency before an ALJ, with the possibility of appeal to the Commission.
- Timely conduct Commission proceedings so that litigants and industry can adjust behavior accordingly.

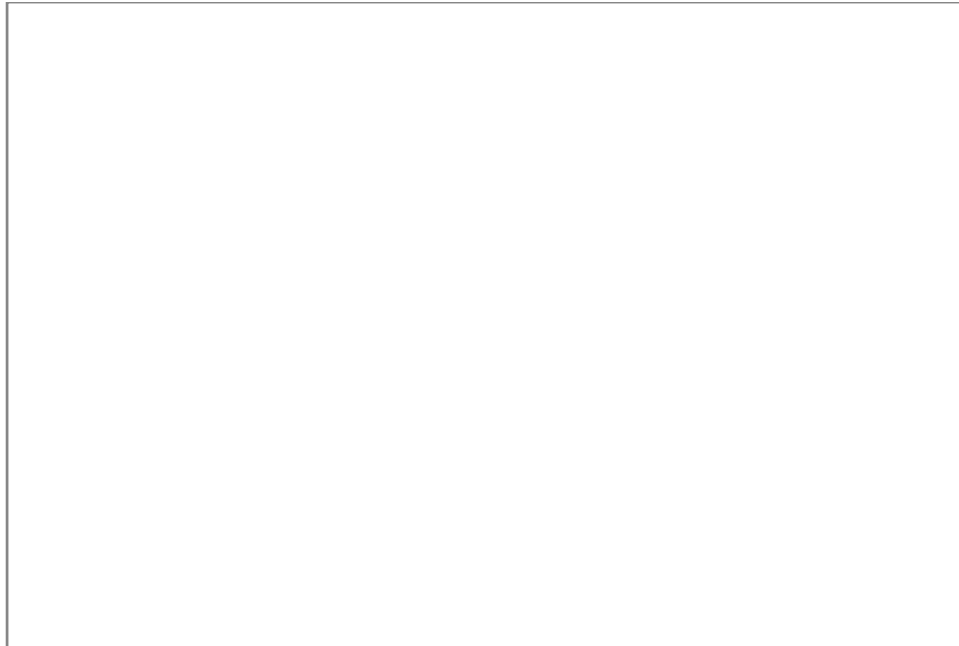
### **Strategic Goal Number 3:**

*Advance agency objectives through high-performance leadership and efficient stewardship of resources.*

In pursuing its core strategic goals of maintaining an efficient and competitive international transportation system and protecting the shipping public from unlawful, unfair and deceptive ocean transportation practices, the FMC recognizes the critical importance of providing effective, performance-oriented management and of ensuring that all resources allocated to its mission are wisely employed.

Given the importance of maintaining agency expertise in carrying out its various regulatory responsibilities, the strategic management of our human resources will remain a primary concern. In addition, on-going review and streamlining of current agency work processes, particularly through the effective use of new technologies to enhance and improve performance is seen as a critical function.

By carefully and closely monitoring all of its operational programs, personnel needs, planning processes, financial and procurement practices, and vital support activities, the agency strives to ensure that its strategic goals are not only being met – but being advanced in ways that make the most productive use of the scarce resources with which it has been entrusted.







<b>Strategic Goal 3:</b>		
Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>Objective 1:</b>		
Ensure performance of agency programs through performance-oriented management and planning		
<b>Performance Measure 1:</b> Attain an "unqualified" opinion on financial and performance monitoring systems through FY 2015		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
Unqualified	Unqualified	Unqualified

**Strategy for accomplishing Strategic Goal #3, Objective #1**

- Develop annual budget directly linked to strategic and annual performance plans for submission to Congress and OMB.
- Annually measure performance as established in the strategic plan and assess the efficacy of performance measures for preparation of the annual performance plan.
- Identify and alleviate current and future skill gaps by fostering human resources 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.

- Promote economy and efficiency by detecting waste, fraud and abuse in the agency's programs via auditing agency operations.
- Ensure 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.

**Objective Number 2:**

*Allocate technological, financial and human resources efficiently and effectively toward support of agency programs.*

<b>Strategic Goal 3:</b>		
Advance agency objectives through high-performance leadership and efficient stewardship of resources		
<b>Objective 2:</b>		
Allocate technological, financial and human resources efficiently and effectively toward support of agency programs		
<b>Performance Measure 2:</b> Percentage of all recruitment actions for GS positions are completed within OPM's 45 day hiring model and within 30 days for SES positions		
FY 2010 Plan	FY 2011 Target	FY 2012 Target
60.00%	65.00%	70.00%

**Strategy for accomplishing Strategic Goal #3, Objective #2**

- Execute financial management policies and programs, manage agency appropriations, administer internal control systems for agency funds, travel and cash management, and coordinate with contractors who provide accounting and payroll services.
- Monitor performance to ensure the agency's program operations are effectively supported via telecommunications, procurement of administrative goods and services, property management, space, printing and copying, mail and records services, facilities and equipment maintenance, and transportation.
- Provide guidance to staff regarding administrative matters, including procurement, personnel and contracting issues.
- Utilize technology and IT expertise to streamline the agency's work processes and enhance the productivity of the workforce to support the needs of the Commission.

Appendix A

Workload Statistics:

Office of the Secretary

<u>Formal Proceedings Program</u> <u>Office of the Secretary</u> <u>Statistical Workload Summary</u>										
Workload Units		FY 2009 Actual			FY 2010 Estimate			FY 2011 Estimate		
	On Hand 09/30/08	Receipts	Output	On Hand 09/30/09	Receipts	Output	On Hand 09/30/10	Receipts	Output	On Hand 09/30/11
Commission Docketed Proceedings (Formal, Special & Informal)	10	26	26	10	25	25	10	25	25	10
Commission Non-Docketed Proceedings	1	3	2	2	2	3	1	2	2	1
Service Contract Correction Applications	0	0	0	0	1	1	0	1	1	0
Non-Docketed Informal Complaints	133	727	744	116	450	426	140	510	510	140
Docketed Informal Complaints	20	14	7	27	10	26	11	12	8	15
Agenda Items	0	261	261	0	200	200	0	200	200	0
Pages of Minutes	0	321	321	0	220	220	0	220	220	0
Federal Register Notices	0	415	415	0	325	325	0	325	325	0
FOIA Requests	12	30	20	22	30	40	12	25	30	7
Certifications	0	27	27	0	20	20	0	20	20	0

**Office of the General Counsel**

<b>Formal Proceedings Office of the General Counsel Statistical Workload Summary</b>										
Workload Units	Fiscal 2009 Estimate			Fiscal 2010 Estimate			Fiscal 2011 Estimate			
	*On Hand 09/30/08	Receipts	Output	*On Hand 09/30/09	Receipts	Outputs	*On Hand 09/30/10	Receipts	Outputs	*On Hand 09/30/11
<b>Litigation</b>	4	6	5	5	3	4	4	2	4	2
<b>Legislation</b>	0	80	80	0	90	90	0	100	100	0
<b>Legal Opinions, case summaries, decisions and final orders</b>	10	87	88	9	90	94	5	95	94	6
<b>Sec. 19/Sec. 13 (b)(5) FSPA Proceedings</b>	1	0	0	1	2	1	2	1	1	2
<b>International affairs reports, policy papers, briefings, controlled carrier recommendations</b>	0	30	30	0	35	35	0	40	40	0
<b>Speeches, articles, presentations</b>	0	15	15	0	20	20	0	25	25	0
<b>Interagency &amp; international group participation</b>	0	30	30	0	35	35	0	40	40	0
<b>Response to requests for information, oral &amp; written</b>	0	275	275	0	280	280	0	285	285	0

**Office of the Administrative Law Judges**

<p align="center"><b>Formal Proceedings Program</b>  <b>Office of the Administrative Law Judges</b>  <b>Statistical Workload Summary</b></p>										
Workload Units	FY 2009 Actual			FY 2010 Estimate			FY 2011 Estimate			
	On Hand 09/30/08*	Receipts	Output	On Hand 9/30/09	Receipts	Output	On Hand 09/30/10	Receipts	Output	On Hand 09/30/11
<b>Formal Proceedings</b>	20	6	12	12*	7	11	8	8	10	6
<b>Special Proceedings</b>	0	0	0	0	0	0	0	0	0	0
<b>Informal Proceedings</b>	0	0	0	0	0	0	0	0	0	0

\*Three formal proceedings counted as on hand 09/30/08 (02-08, 04-01, 04-06) were subtracted from the OALJ workload when the Commission dismissed them pursuant to instructions from the United States Court of Appeals for the District of Columbia Circuit. One formal proceeding (07-01) for which OALJ issued an initial decision approving a settlement agreement between two parties is counted as output but also remains on hand 09/30/09 because claims between one of the settling parties and a third party are not resolved. One formal proceeding (08-05) was referred to the Commission for a decision on a motion to dismiss and counted as output and not on hand 09/30/09.

**Bureau of Trade Analysis**

<b>Operations Program Bureau of Trade Analysis Statistical Workload Summary</b>										
Workload Units	FY 2009 Actual			FY 2010 Estimate			FY 2011 Estimate			
	On Hand 09/30/08	Receipts	Output	On Hand 09/30/09	Receipts	Output	On Hand 09/30/10	Receipts	Output	On Hand 09/30/11
<b>Agreements Filed</b>	6	158	156	8	150	152	6	150	150	6
<b>Rulemakings, Proceedings, Petitions, Demand Orders</b>	0	1	1	0	1	1	0	1	0	1
<b>Waiver Requests</b>	0	5	5	0	5	5	0	5	5	0
<b>Bureau Reports *</b>	0	104	104	0	104	104	0	104	104	0
<b>Agreement Reports</b>										
<b>Minutes</b>	15	1,050	1,050	15	1,050	1,050	15	1,050	1,050	15
<b>Monitoring</b>	0	368	368	0	370	370	0	370	370	0
<b>VSCG</b>	3	167	167	3	170	170	3	170	170	3
<b>Service Contracts</b>	0	45,328	45,328	0	45,781	45,781	0	46,239	46,239	0
<b>Contract Amds</b>	0	412,570	412,570	0	371,313	371,313	0	375,000	375,000	0
<b>Special Permissions</b>	0	2	2	0	4	4	0	4	4	0
<b>NVOCC Service</b>										
<b>Arrangements</b>	0	1,289	1,289	0	1,300	1,300	0	1,315	1,315	0
<b>Arrangement Amds.</b>	0	2,389	2,389	0	2,450	2,450	0	2,500	2,500	0
<b>Informal Inquiries **</b>	0	2,636	2,636	0	2,700	2,700	0	2,800	2,800	0
<p>* Bureau Reports - include weekly reports to Commissioners on agreements filed and weekly Federal Register Notice reports.</p> <p>** These numbers are higher than in previous years due to a change in the tracking system for informal inquiries and the types of inquiries included in this figure.</p>										

**Bureau of Certification and Licensing**

<p align="center"><u>Operations Program</u> <u>Bureau of Certification and Licensing</u> <u>Statistical Workload Summary</u></p>										
Workload Units		FY 2009 Actual			FY 2010 Estimate			FY 2011 Estimate		
	On Hand 09/30/08	Receipts	Output	On Hand 09/30/09	Receipts	Output	On Hand 09/30/10	Receipts	Output	On Hand 09/30/11
OTI Applications New *	224	482	414	292	497	515	274	512	580	206
OTI Applications Amended *	103	277	252	128	291	300	119	306	320	105
OTI License Terminations **	0	264	264	0	277	277	0	290	290	0
Passenger Vessel Applications (Performance)	1	18	18	1	19	19	1	20	20	1
Passenger Vessel Applications (Casualty)	12	18	14	16	19	15	20	20	16	24
<p>* OTI application output figures primarily include the number of (1) licenses issued, and (2) approvals for license and other changes not requiring the issuance of a license.</p> <p>** Revoked or surrendered licenses not subsequently re-issued.</p>										

**Bureau of Enforcement**

<p align="center"><b>Operations Program</b>  <b><u>Bureau of Enforcement</u></b>  <b><u>Statistical Workload Summary</u></b></p>										
Workload Units		FY 2009 Actual			FY 2010 Estimate			FY 2011 Estimate		
	On Hand 09/30/08	Receipts	Output	On Hand 09/30/09	Receipts	Output	On Hand 09/30/10	Receipts	Output	On Hand 09/30/11
<b>Audits and Monitoring Activities*</b>	4	6	5	5	3	4	4	2	4	2
<b>OTI Applicant and License Checks</b>	0	80	80	0	90	90	0	100	100	0
<b>Formal Proceedings</b>	10	87	88	9	90	94	5	95	94	6
<b>Civil Penalty Cases</b>	1	0	0	1	2	1	2	1	1	2
<b>Staff Legal Advice</b>	0	30	30	0	35	35	0	40	40	0
<p>* Category of Investigations changed to Audits and Monitoring Activities. Audits and monitoring activity seperated from investigations. Investigations are included in other categories in the Statistical Workload Summary.</p>										



## Appendix B

### Certification of the Office of Inspector General's Fiscal Year 2011 Budget Request

The Inspector General Reform Act (Pub. L. 110-149) was signed by the President on October 14, 2008. Section 6(f) (1) of the Inspector General Act of 1978, 5 U.S.C. app. 3, was amended to require certain specifications concerning Office of Inspector General (OIG) budget submissions each fiscal year.

Each inspector general (IG) is required to transmit a budget request to the head of the establishment or designated Federal entity to which the IG reports, specifying:

- The aggregate amount of funds requested for the operations of the OIG,
- The portion of this amount requested for OIG training, including a certification from the IG that the amount requested satisfies all OIG training requirements for the fiscal year, and
- The portion of this amount necessary to support the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

The head of each establishment or designated Federal entity, in transmitting a proposed budget to the President for approval, shall include:

- An aggregate request for the OIG;
- The portion of this aggregate request for OIG training;
- The portion of this aggregate request for support of the CIGIE; and
- Any comments of the affected IG with respect to the proposal.

The President shall include in each budget of the U.S. Government submitted to Congress.

- A separate statement of the budget estimate submitted by each IG;
- The amount requested by the President for each OIG;
- The amount requested by the President for training of OIGs;
- The amount requested by the President for support of the CIGIE; and
- Any comments of the affected IG with respect to the proposal if the IG concludes that the budget submitted by the President would substantially inhibit the IG from performing duties of the OIG.

Following the requirements as specified above, the Federal Maritime Commission Inspector General submits the following information relating to the OIG's requested budget for fiscal year 2011:

- The aggregate budget request for the operations of the OIG is \$779,844;
- The portion of this amount needed for OIG training is \$5,500; and
- The portion of this amount needed to support the CIGIE is \$ 1,700.

I certify as the IG of the Federal Maritime Commission that the amount I have requested for training satisfies all OIG training needs for fiscal year 2011.



Inspector General  
Federal Maritime Commission

## Appendix C

### Employee Satisfaction and Wellness

#### **Employee Satisfaction Initiatives**

Overall, results from the 2008 Federal Human Capital Survey indicate that FMC employees like the work they do and believe the Commission does a good job in the areas of recruitment, employee development, and retention. The rate of positive responses by FMC employees exceeded the government-wide average in all but 3 of the 74 questions included in the survey. The Commission's response rate of 69% for 2008 was comparable to the 70% response rate for the 2006 Survey.

The FMC's highest scores were in the area of employee benefits and support for work/life balance. Ninety-one percent of FMC employees expressed satisfaction with the Commission's paid leave policies. Eighty-seven percent of employees believe their immediate supervisors support their needs to balance work and life issues. FMC employees were also very satisfied with the retirement, health insurance, and life insurance benefits. Each of these questions received over 75% positive responses. Our strong employee benefits program is helping the Commission compete with the private sector to recruit and retain mission critical employees as evidenced by the 82% of survey respondents who believe their work unit is able to recruit people with the right skills.

FMC employees demonstrate a high level of commitment to the work they do and work cooperatively with one another to effectively carry out the agency's mission. This enables the FMC to provide a high level of service to the American public. For example, almost 90% of employees understand how their work relates to agency goals and priorities. Ninety-three percent of survey respondents said that FMC employees cooperate to get their work done. Eighty-four percent responded that employees share job knowledge with colleagues within their work units.

Questions about training and employee development at the FMC also received positive responses. Almost 80% of employees believe that they are given a real opportunity to improve their skills within the Commission. Eighty-two percent responded that management in their work units support employee development. Ninety-five percent said they can easily access electronic learning and training programs from their desks.

The Commission scored well on questions relating to the creation of an effective results-oriented performance culture but some areas for improvement have been identified. On the positive side, over 86% of Commission employees believe that they are held accountable for achieving results at work. Additionally, most employees believe their performance appraisals are accurate reflections of their performance and that conversations with their supervisors about their performance are worthwhile. The Commission has been successful in communicating to employees via performance standards what is expected of them in order to be rated at different performance levels during the annual performance appraisal process. Eighty-five percent of

employees acknowledged they understood what was expected of them in terms of job performance in order to be rated at different levels on their most recent performance appraisals.

Areas for improvement include the ability of the performance management system to deal with poor performers and a perception that pay raises are not dependent on how well employees perform their jobs. The FMC improved its positive rating in this area by 26.9% over the 2006 Survey; however, the Commission strives for additional improvement in this area. Also notable were concerns expressed by employees about limited opportunities for employees to get a better job at the FMC. Nearly 55% of employees surveyed responded positively to this survey question. This is a 16% improvement over the results of the 2006 survey at the FMC. Within the last year, the Commission has taken steps such as reexamining its policy on upward mobility to address concerns raised by the Survey in this area.

Forty-one items reflected marked shifts from the 2006 results where a variance of more than 9% was recorded. All 41 questions constituted positive increases, with no decreases. The largest shift was seen in the area of recruitment, development, and retention where the positive response rate increased by more than 31% between the 2006 and 2008 Surveys in response to a question about the Commission's ability to recruit people with the right skills. The results also spoke to an improved perception of the "performance culture" at the FMC where positive response rates increased over 15% for several questions in that category.

The Commission substantially improved its scores in questions relating to overall job satisfaction. Notable was a 20% increase in satisfaction with the practices and policies of the FMC's senior leaders, a 17% increase in satisfaction with training FMC employees receive for their present jobs, and an 11% increase in job satisfaction. Overall satisfaction with the FMC increased by 20% above the 2006 Survey results.

Twenty-two questions shifted by between 3% and 9% from the figures reported in the 2006 Survey. All responses except one constituted a more favorable opinion than was registered in the 2006 Survey. A question regarding supervisor support for work and other life issues fell by 4% from the 2006 Survey results. The FMC's positive rate of response to this question was 86% and exceeded the government wide average by 11%. Nine questions showed less than a 3% change, too small to reflect a trend having statistical significance.

The Commission's percentage of positive responses exceeded the government-wide average in all but three questions. One question measured employees' commitment to their job by asking if they liked the kind of work they do. The FMC received a 79% positive response rate while the government wide average was 84%. At FMC, the number of positive responses to this question increased by less than 1% between the 2006 and 2008 Surveys. When asked if employees believe the work they do is important, the Commission received an 84% positive response rate while the government wide average was 91%. The number of positive responses to this question by FMC employees was unchanged from the 2006 Survey.

## **Health and Wellness Initiatives**

The Federal Maritime Commission operates a robust health and wellness program for its employees in support of the President's Work-Life initiative. The FMC recognizes that an effective health and wellness program helps drive employee satisfaction and positions the Commission as an employer of choice.

In fiscal year 2008 and 2009, the Commission linked its wellness programs to the U.S. Office of Personnel Management's (OPM) Retirement Readiness: NOW model. This model emphasizes career-long retirement planning with preventative care and making decisions that promote healthy living as essential parts of the planning process. This linkage provided an opportunity for the FMC to tie wellness with its financial literacy education plan and volunteerism initiatives, which are the other elements of the Retirement Readiness: NOW model.

The FMC contracts with the Federal Occupational Health Service (FOH) to operate a health unit at the Commission's headquarters. The FOH nurse provides many of the on-site health and wellness services to our employees. Services available include first aid, immunizations for flu and pneumonia, blood pressure monitoring, lipid panels to test cholesterol levels, allergy clinics, lactation support for pregnant and nursing women, and tests for exposure to tuberculosis. All are provided at no cost to the employees. The health unit also stocks literature and videos on various health-related topics. During FY 2009, the FMC worked with other tenants in its headquarters building to commit the needed funding to have the health unit open four additional hours each day. Previously, the health unit closed at 12:30 PM each day.

The Commission also contracts with FOH to provide an Employee Assistance Program (EAP). All FMC employees and their dependants can receive up to three confidential counseling sessions for any emotional, relationship, financial, or job concern. The FMC receives quarterly utilization reports from FOH to monitor usage and employee satisfaction with the services provided by EAP. In the past, the EAP counselor assigned to the FMC has presented seminars for FMC employees on topics like managing holiday stress and time management. FOH also sends a representative to the FMC's annual health fair to distribute literature about EAP services and stress test cards.

The FMC's Office of Human Resources takes the lead for planning and marketing health and wellness initiatives. OHR publishes a bimonthly newsletter titled *BodyWatch*, which highlights wellness information and activities. The newsletter is distributed to all employees via e-mail and posted on bulletin boards in common areas. OHR also issued a memorandum promoting the President's Challenge for Physical Fitness, and encouraged employees to meet recommended goals for physical activity set by the President's Council for Physical Fitness.

During the Federal Benefits Open Season, OHR sponsors a benefits fair that is open to FMC employees as well as other Federal employees in the headquarters building. In fiscal year 2009, eight insurance carriers, the FMC's on-site nurse, EAP counselor, and representatives from the Flexible Spending Account and Federal Long Term Care Insurance Program had booths. About 300 Federal employees attended the fair.

In July, OHR partnered with Blue Cross and Blue Shield to bring in a nutritionist from Virginia Hospital Center to present a seminar on healthy living. Thirty FMC employees attended the Seminar. Four employees from other Federal agencies in the headquarters building also participated.

To promote health and safety in the workplace, the Commission implemented an Automatic External Defibrillator Program during FY 2009. Training on the equipment was provided to 28 FMC employees who have responsibilities on the Commission's Emergency Response Team.

The Commission recently completed an inventory of its worksite wellness programs using the automated WellCheck tool provided by OPM. Senior management will use the inventory to assess the effectiveness of our wellness program and set targets for improvement.