



FEDERAL MARITIME COMMISSION

FY 2022 PERFORMANCE AND ACCOUNTABILITY REPORT

November 2022

Contents

Management’s Discussion and Analysis	5
Commission Background.....	6
Mission Statement	6
Statutory Authority	6
Organizational Structure.....	6
Organization Chart.....	7
Members of the Federal Maritime Commission.....	8
Commission Bureaus and Offices.....	9
Recent Developments.....	10
Ocean Shipping Reform Act of 2022	11
Priorities Reflecting Ocean Shipping Industry Conditions	12
FY 2022 Performance Highlights.....	13
Competition and Reliability Oversight	13
Consumer Protection Oversight.....	15
Organizational Management	17
Information Technology and Cybersecurity.....	17
Strengthening Federal Hiring	17
Advancing Equity.....	18
Program Performance Overview	18
Achieving Strategic Goal Results.....	18
Strategic Management of Human Capital.....	18
Competitive Sourcing.....	19
Expanded E-Government	19
Financial Performance Overview	19
Source of Funds.....	20
Appropriations History.....	21
Full-time Equivalent History.....	21
Uses of Funds	22
Audit Results	22
Financial Statement Highlights	22
Summary of Assets.....	22

Summary of Liabilities..... 23

Analysis of Changes in Net Position Summary..... 24

Analysis of Net Cost Summary 24

Analysis of the Statement of Budgetary Resources 25

Systems, Control, and Legal Compliance Analysis 26

 Management Assurances..... 26

 Debt Collection Improvement Act of 1996 27

 Digital Accountability and Transparency Act of 2014 (DATA Act) 27

 Prompt Payment Act of 1982..... 27

 Performance Measure Summary 28

 Inspector General Act and Inspector General Reform Act 28

 Treasury Assurance Statement – USA Spending Reconciliation 28

 Limitations of the Financial Statements 28

 Federal Managers’ Financial Integrity Act Statement of Assurance 29

Annual Performance Report 30

 Introduction 31

Financial Information 40

 Message from the Chief Financial Officer/Director, Enterprise Services 41

 Principal Financial Statements..... 42

 Limitations of the Financial Statements 42

 Financial Statements & Independent Auditor Report 43

 Independent Auditors' Report 45

 Federal Maritime Commission Comments on Audit Report..... 51

 Federal Maritime Commission Financial Statements 52

Other Required Information 68

 Inspector General’s Statement on Management and Performance Challenges..... 69

 Comments on Inspector General’s Statement 72

 Financial Statement Audit Summary 73

 Management Assurances Summary 73

 Improper Payments Information Act..... 74

 Fraud Reduction Report..... 74

 Civil Monetary Penalty Adjustment for Inflation..... 74

 Biennial Review of User Fees 75



Federal Maritime Commission
Office of the Chairman
Washington, D.C. 20573-0001

November 15, 2022

On behalf of the Federal Maritime Commission, I am pleased to provide this Fiscal Year 2022 (FY 2022) Performance and Accountability Report (PAR). The performance and financial data reported here is complete, reliable, and provides a comprehensive representation of the Commission's work over the past fiscal year.

The Commission evaluated its management controls and financial management system pursuant to the Federal Managers' Financial Integrity Act of 1982 prior to the preparation of this report. No material weaknesses were identified, and the financial management system used conforms to government financial system requirements. In accordance with OMB Circular A-123, Appendix C, no improper payments were made.

This report contains the results of an independent audit of the Commission's financial statements, internal controls, and management systems indicating they conform to Generally Accepted Accounting Principles, laws, regulations, and other requirements. The independent auditor's report appears on page 45, and my statement of assurance appears on page 29. I take great pride in that for the 19th consecutive year, the Commission's financial statements have earned an unmodified ("clean") opinion.

In addition, this report provides highlights of the Commission's work, guided by its Strategic Plan. In accomplishing its mission, the Commission is committed to helping the Nation meet its current supply chain challenges and implementing the enhanced authorities of the recently-enacted Ocean Shipping Reform Act of 2022, Pub. L. No. 117-146 (OSRA 2022). In all its activities, the Commission strives to ensure proper operational oversight, transparency and accountability to the American public while achieving its mission. You may also find this report online at: <https://www.fmc.gov/about-the-fmc/performance-and-accountability-reports/>.

Sincerely,

/s/

Daniel B. Maffei
Chairman



Management's Discussion and Analysis

Commission Background

First constituted over 100 years ago as the U.S. Shipping Board in the Shipping Act of 1916, the Federal Maritime Commission (FMC or Commission) was authorized in its current form as an Executive Branch agency in 1961. The Commission is an independent agency, charged with regulating the international ocean transportation supply system. The Commission works to further competition and integrity for America's ocean supply chain and protect the public from unlawful ocean shipping practices.

Mission Statement

Ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

Statutory Authority

The economics of U.S.-foreign oceanborne commerce and the effectiveness of the supply chain impact U.S. importers, exporters, and consumers. In 2022, Congress enhanced U.S. international ocean shipping laws with the passage of the Ocean Shipping Reform Act of 2022 (OSRA 2022), bolstering the FMC's jurisdiction and authorities in competition and protections for shippers.

The principal statutes administered by the FMC, codified at 46 U.S.C. §§ 40101-46108, are:

- The Shipping Act of 1984, 46 U.S.C. §§ 40101-44106 (Shipping Act);
- The Ocean Shipping Reform Act of 1998, Pub. L. No. 105-258 (1998) (OSRA 1998);
- The Foreign Shipping Practices Act of 1988 (FSPA);
- Section 19 of the Merchant Marine Act, 1920 (1920 Act);
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350;
- Section 834 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (LoBiondo Act);
- and
- The Ocean Shipping Reform Act of 2022, Pub. L. No. 117-146 (2022) (OSRA 2022).

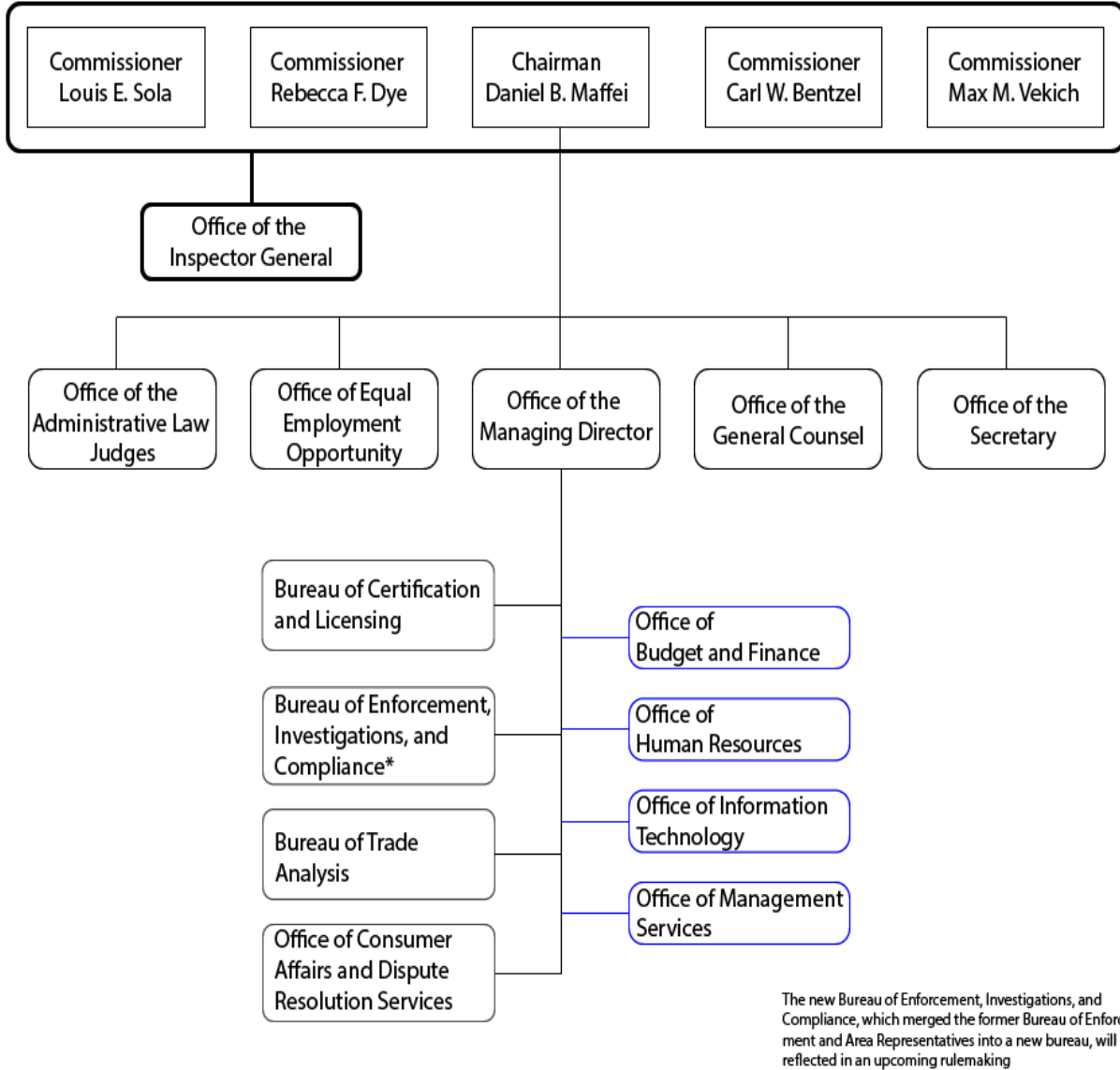
Organizational Structure

The FMC is composed of five Commissioners nominated by the President and confirmed by the Senate, each serving a staggered five-year term. The Commission is a bipartisan body and no more than three members of the Commission may be of the same political party. One Commissioner, designated by the President, serves as the Chairman, Chief Executive, and Chief Administrative Officer of the Commission.

The Commission's staff is mainly comprised of economists, attorneys, and other experts in ocean transportation, and is primarily located at its Washington, D.C. headquarters. The Commission also maintains a presence in locations across the country to investigate claims from shippers and consumers as well as FMC-initiated matters. The Commission's administrative offices provide the agency's information technology services, human resources

support, budget and financial planning, and procurement of goods and services to effectuate its mission.

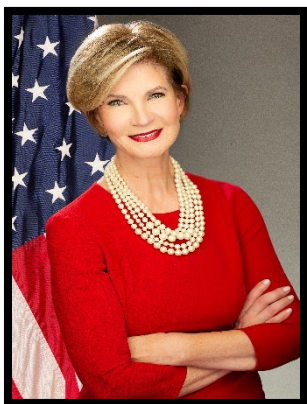
Organization Chart



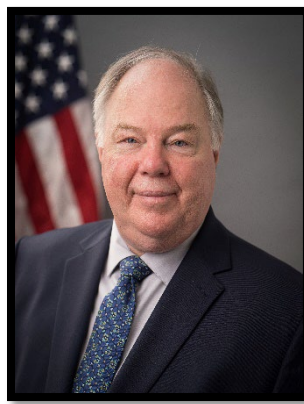
Members of the Federal Maritime Commission



Chairman Daniel B. Maffei
Appointed 2016
Term Expired 2022



Commissioner Rebecca F. Dye
Appointed 2002
Term Expired 2020



Commissioner Max M. Vekich
Appointed 2022
Term Expires 2026



Commissioner Louis E. Sola
Appointed 2019
Term Expires 2023



Commissioner Carl W. Bentzel
Appointed 2019
Term Expires 2024

Commission Bureaus and Offices

Bureau of Certification and Licensing (BCL) protects the public from financial harm through its OTI licensing, registration, and surety bonding programs. BCL also protects the public by requiring passenger vessel operators (PVOs) to maintain adequate financial coverage to reimburse cruise cancellations or to cover liability in the event of death or injury at sea.

Bureau of Enforcement, Investigations, and Compliance (BEIC) is the prosecutorial arm of the Commission. Bureau attorneys serve as trial counsel in formal proceedings and protect the shipping public by working closely with the Commission's investigators, to examine potential violations of the Shipping Act and Commission regulations. BEIC negotiates settlements and informal compromises of civil penalties and may act as investigative officers in formal fact-finding investigations.

Bureau of Trade Analysis (BTA) analyzes and monitors the concerted activities of vessel-operating common carriers (VOCCs or carriers) and MTOs to detect and guard against possible anticompetitive abuse of authority contained in filed agreements which could result in substantial increases in transportation costs or decreases in transportation services. BTA also reviews and analyzes service contracts, monitors rates of foreign, government-owned controlled carriers; and reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act.

Office of the Administrative Law Judges (OALJ) presides over administrative hearings and independently resolves cases involving alleged violations of the Shipping Act of 1984 initiated by private parties or by the Commission. Through trial hearings and the issuance of decisions, the OALJ ensures that the rights of all parties are preserved.

Office of Consumer Affairs and Dispute Resolution Services (CADRS) provides assistance to shippers, OTIs, cruise operators and passengers, truckers, MTOs, and carriers by providing alternative dispute resolution (ADR) services, ombuds assistance, mediation, and facilitation to resolve disputes involving cargo shipments, household goods shipments, and cruises.

Office of Equal Employment Opportunity (OEEO) advises and assists the Commission in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 (as amended), other laws, executive orders, and regulatory guidelines implementing affirmative employment; and the processing of EEO complaints.

Office of the Inspector General (OIG) is an independent oversight office created within the FMC by the Inspector General Act of 1978 (as amended) to conduct and supervise audits, inspections, and investigations relating to the FMC's programs; to detect and prevent waste, fraud, and abuse; to promote economy, efficiency, and effectiveness; to keep the Chairman, Commissioners, and Congress fully informed of serious problems and deficiencies and recommend corrective actions; and, as appropriate, to report violations of law to the U.S. Attorney General.

Office of the General Counsel (OGC) provides sound and timely legal services to the Commission and staff as it fulfills responsibilities, including preparing final decisions, orders,

and regulations for Commission approval and issuance; represents the Commission in litigation before the courts; provides technical and policy assistance to other government agencies engaged in international negotiations or discussions on shipping matters; and provided legal opinions to the Commission, its staff, and the general public in appropriate instances. OGC also oversees the Commission's international affairs activities. The General Counsel is the Commission's Chief Legal Officer.

Office of the Managing Director (OMD) implements the administrative directives of the Chairman and manages and coordinates Commission program offices and bureaus. The Managing Director is the Chief Operating Officer. The Director, Enterprise Services also serves as the Chief Financial Officer and oversees the administrative offices of the Commission, including the Offices of Budget and Finance (OBF), Human Resources (OHR), Information Technology (OIT), and Management Services (OMS).

Office of the Secretary (OS) serves as the office through which all filings are made in Commission proceedings, notices of proceedings are given, and from which all official actions are issued by the Commission. OS prepares and maintains agenda matters and actions taken by the Commission; maintains official files and records of formal proceedings; ensures compliance with the Freedom of Information, Government in the Sunshine, and Privacy Acts; responds to information requests from the public; issues publications and authenticates instruments and documents of the Commission; maintains a public reference/law library and a docket library; and oversees the organization and content of the Commission's website.

Recent Developments

The FMC has an important role in U.S. competition and consumer protection in the international ocean transportation shipping supply chain. Events over the past several years, including most obviously and most significantly, those related to the COVID-19 pandemic, have exposed weaknesses in the Nation's supply chain and created increased interest in FMC oversight over the international ocean transportation system. In response to high rates, low reliability, and extreme delays due to congestion; consumers, industry stakeholders, and the U.S. Congress looked to the Commission to help solve the emergent issues. The Ocean Shipping Reform Act of 2022 (OSRA 2022) was passed in furtherance of this goal, and the Commission has responded by adjusting its priorities to align with the current conditions in the industry and OSRA 2022. Although the dire conditions that brought about this interest and legislation have already begun to wane, the underlying weaknesses remain, and the Commission's emphasis on the issues will not relent.

Ocean Shipping Reform Act of 2022

With the passage of OSRA 2022, the FMC's ability to safeguard competition and protect shippers, particularly in the U.S. agricultural export sector, was bolstered. For the benefit of the ocean shipping industry, the FMC is committed to timely implementation of the new law and has made great strides in meeting the ambitious congressional timelines it contained.

OSRA 2022 modified the Shipping Act in the following ways:

- Strengthened the prohibition against unreasonably refusing to deal or negotiate and extended it to prohibit the unreasonable refusal of cargo space accommodations when available;
- Expanded the prohibition against retaliation directed at shippers, including by extending its scope to include additional regulated entities;
- Established minimum invoice requirements, including a mandate that all invoices must include a certification that the charges are reasonable, and created a provision that invalidates charges on noncompliant invoices;
- Created a new mechanism for shippers to submit complaints about charges to the FMC for investigation, potential refunds, and potential civil penalties;
- Enabled the FMC to order refunds, in addition to civil penalties, to shippers after notice and opportunity for a hearing;
- Formally established the FMC's existing Office of Consumer Affairs and Dispute Resolution Services (CADRS), recognizing its important role in providing consumer assistance; and
- Mandated FMC registration for any shipping exchange registry involving ocean transportation in the U.S. foreign commerce.

In addition to the efforts required to implement and enforce the preceding changes, OSRA 2022 mandated the Commission undertake the following activities:

- Rulemaking to define what constitutes unreasonable refusals to deal or provide cargo space accommodations when available;
- Rulemaking to determine whether additional minimum billing requirements are necessary, and if so, to establish them;
- Creating a webpage that allows the public to submit comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution;
- Increasing staff by not fewer than seven positions to assist in investigations and oversight;
- Collecting and publishing specified information to foster increased transparency surrounding movement of U.S. agricultural and other exports, practices of state-owned, state-controlled, and certain other foreign-owned ocean common carriers, and instances of improper invoicing and the resulting penalties;
- Engaging with the National Academy of Sciences to begin a study on best practices for on-terminal or near-terminal chassis pools;

- Determining whether FMC temporary emergency authority to collect data during times of emergency congestion is warranted; and
- Publishing the results of Fact Finding 29.

Priorities Reflecting Ocean Shipping Industry Conditions

The Commission's response to recent developments in the ocean shipping industry is focused in three areas: Support to U.S. Exporters, Increased Enforcement Activities, and Enhanced Consumer Assistance.

SUPPORT TO U.S. EXPORTERS

In addition to increasing consumer assistance, the Commission is prioritizing support of U.S. exporters by addressing industry conditions and best practices concerning the carriage of exports directly with common carriers and other regulated entities; investigating and prosecuting instances where a vessel-operating common carrier (VOCC) is unreasonably refusing to deal with an exporter or handle export cargo; and with the designation of an export expert in CADRS to expeditiously handle export disputes to move freight more quickly. Speed is particularly important for U.S. agricultural exporters because of the perishable nature of their commodities.

INCREASED ENFORCEMENT ACTIVITIES

The Commission is focusing enforcement resources on high-impact cases that will create a substantial deterrent against the most serious violations of the Shipping Act.

Investigative and prosecutorial functions have been consolidated in a newly-created Bureau of Enforcement, Investigations, and Compliance (BEIC) to enable more effective and efficient investigations, compliance reviews, and formal enforcement actions.

An interim process for receiving and investigating charge complaints, a new avenue for relief for aggrieved shippers created by OSRA 2022, is in place and investigations are underway. The Commission is devoting significant resources to ensure charge complaints are processed quickly as contemplated by the law.

ENHANCED CONSUMER ASSISTANCE

The Commission has expanded the Office of Consumer Affairs and Dispute Resolution Services (CADRS) to advocate for U.S. shippers, provide informational assistance, and facilitate expeditious and fair informal resolution of international ocean shipping disputes. CADRS offers ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments and household goods shipments that might otherwise be submitted to the Commission for costly litigation.

In compliance with OSRA 2022, the Commission began to update its website to make it easier for the public to engage with the Commission. When completed, the website will allow for the submission of comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution.

FY 2022 Performance Highlights

Competition and Reliability Oversight

Economic analysis of the U.S.-foreign ocean shipping trade and oversight of ocean common carrier and marine terminal operator operations and cooperative agreements is at the heart of maintaining competition and reliability in the global supply chain. Bolstered by OSRA 2022, the Commission's recent work to address current supply chain challenges assists the public by improving supply chain efficiency and ensuring the supply chain remains competitive for U.S. shippers. This is also accomplished through analysis and evaluation of the competitive impact of the shipping industry's practices for the benefit of U.S. exporters/importers and the U.S. consumer.

The Commission guards against unreasonable increases in transportation costs or decreases in transportation services that are attributed to anticompetitive practices under FMC-filed agreements. To do so, the Commission analyzes and monitors key U.S. trade lanes; and assesses the competitive effects of agreement parties' activities, particularly focusing on issues of costs (freight rates), vessel capacity (supply), and equipment availability. Enforcement of 46 U.S.C. §§ 41105 and 41307 preserves competition in the purchase of certain covered services (as defined in 46 U.S.C. § 40102(5)).

Detention and Demurrage Billing Requirements: After receiving interim recommendations from the Commission's Fact Finding 29 Investigation, the Commission issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comment on detention and demurrage billing requirements, including certain minimum information common carriers or marine terminal operators should be required to include in billings, and whether common carriers should be required to adhere to certain practices regarding billing timing. To underscore the importance of ensuring the legitimacy of billing and charges, OSRA 2022 added minimum invoice requirements for detention and demurrage charges, as well as a provision to eliminate charges for invoices that do not comply. The Commission consolidated the existing billing requirements rulemaking with OSRA 2022's provisions and issued a Notice of Proposed Rulemaking in early FY 2023.

Vessel-Operating Common Carrier Audit Program: The Commission's VOCC Audit Program, established in July 2021, assesses ocean common carriers' compliance with the FMC's interpretive rule on detention and demurrage, as well as complaints from shippers and other stakeholders regarding detention and demurrage practices. The VOCC Audit Team continued this work in FY 2022. Through quarterly review of quantitative and qualitative information from the ocean common carriers regarding their internal and external detention and demurrage practices, as well as details of substantive changes to their detention and demurrage tariff rules, the FMC is working to ensure compliance with shipping laws and develop best practices for continued improvement.

Establishment of International Ocean Shipping Supply Chain Program: The Commission established International Ocean Shipping Supply Chain Program within the Bureau of Trade

Analysis to study and address the growing needs of the Nation's supply chain. Key personnel have already been on-boarded, including the Director of Maritime Supply Chain Analytics and several data scientists.

Initiating Requirements for Compliance Officer: The Commission is working with ocean carriers and marine terminal operators to designate FMC Compliance Officers in their organizations. FMC Compliance Officers will aid in ensuring compliance with the law and Commission regulations and provide a direct point of contact for Commission interaction.

Maritime Transportation Data Initiative: In December 2021, Commissioner Carl W. Bentzel initiated a project to identify data constraints that impede the flow of ocean cargo and add to supply chain inefficiencies. The project aimed to evaluate the need for data standards and investigate best practices for data access and transmission essential for a reliable and stable ocean transportation system. Meetings with maritime and intermodal stakeholders were held in FY 2022 and culminated in a data summit in June 2022. The report, expected in early FY 2023, will inform the Commission on the current needs, and potential solutions, for improvements in data transparency to create greater efficiency in the movement of cargo.

National Shipper Advisory Committee: At the direction of Congress, the Commission established the National Shipper Advisory Committee (NSAC or Committee) in 2021. The NSAC is comprised of members who represent entities importing and exporting cargo to and from the United States. The purpose of the Committee is to advise the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. The Committee is responsible for identifying the scope of its work and for providing advice, reports, and recommendations to the Commission. The Committee has provided recommendations designed to bring relief to the industry which are under consideration.

Agreement Review: Approximately 375 agreements, comprised of vessel-operating common carrier (VOCC) agreements, marine terminal operator (MTO) agreements, and assessment agreements, are on file with and monitored by the Commission. Approximately 75 percent of these are VOCC agreements. The Commission also monitors approximately 90 MTO agreements serving the U.S. East, Gulf, and West coasts. In addition, approximately 100 agreements containing joint procurement of covered services are reviewed quarterly by the FMC under alternative periodic reporting requirements. These reporting requirements ensure that the Commission is aware of and can monitor any joint negotiation or procurement activity in a timely manner to ensure adequate competition for U.S. providers of these services. In March 2022, the FMC issued a final rule to modernize outdated requirements and clarify existing requirements for MTO schedules to assist the shipping public make time-sensitive business decisions.

Service Contracts: 444,448 original service contracts and 651,254 contract amendments were filed into the SERVCON system in FY 2022. More than 8,500 publicly available tariff locations are posted on the FMC's website. Roughly 150 of these are VOCCs and the balance are non-vessel-operating common carriers (NVOCCs).

Carrier Automated Tariffs: A Notice of Proposed Rulemaking (NPRM) was published in May 2022 seeking public comment on revisions to the Commission’s regulations on carrier automated tariffs to determine if changes are needed to existing regulations that help the public identify ocean carriers’ rates and rules. The Commission expects to issue a final rule in early FY 2023.

Consumer Protection Oversight

The Commission protects the shipping public through its distinct programs: enforcement, including investigation and compliance; licensing and certifications; formal private party complaints adjudicated by the Office of the Administrative Law Judges; and alternative dispute resolution services provided by the Office of Consumer Affairs and Dispute Resolution Services. OSRA 2022 expanded the FMC’s efforts and authorities in this area indicating the importance of this function, and the Commission has responded to grow these programs in service to the U.S. public.

Enforcement Actions: Enforcement efforts focused on addressing VOCC and MTO practices that assess unjust or unreasonable charges. Focusing the Commission’s resources on high-impact cases creates a substantial deterrent against similar illegal conduct. Three formal proceedings involving unjust and unreasonable practices and other in violation of the Shipping Act were initiated. One proceeding resulted in a civil penalty of \$2 million and two proceedings are ongoing.

New Enforcement Structure: The Commission reorganized its investigative and prosecutorial functions by consolidating them into the Bureau of Enforcement, Investigations, and Compliance (BEIC). This newly established bureau provides a structure better suited to investigate suspected violations and pursue enforcement activity when appropriate while still encouraging and emphasizing compliance as a primary goal. The Commission’s Area Representatives were converted to Investigators and received specialized training to conduct investigations in the field through a systematic fact-finding approach.

Ocean Transportation Intermediary Licensing: Over 9,200 ocean transportation intermediaries (OTIs) are regulated by the Commission, including approximately 5,050 licensed entities based in the United States. More than 4,070 foreign-based NVOCCs are registered with the Commission. More than 740 new and amended OTI applications were received during the fiscal year, and approximately 1,500 OTI licenses were renewed, with most reviewed and processed within 48 hours of submission.

Ocean Transportation Intermediary Financial Responsibility: The Commission provides oversight over approximately \$1 billion in surety bonds which ensure OTIs have sufficient financial resources to operate responsibly. In FY 2022, this included processing of over 1,000 bond termination notices, 1,000 OTI bond riders, and 2,000 new and replacement bonds processed.

Passenger Vessel Operators: In FY 2022, the Commission’s Passenger Vessel Operator (PVO) program certified 258 vessels and 48 operators, with aggregate evidence of financial responsibility coverage of over \$800 million for non-performance and \$700 million for casualty.

In addition, the Commission concluded its Fact Finding 30 Investigation, *COVID-19 Impact on Cruise Industry*, in January 2022 and amended the regulations governing non-performance by PVOs to establish new requirements for when cruise passengers should be provided refunds for cancelled or delayed voyages in February 2022.

Legal Proceedings before the FMC: The Commission's Administrative Law Judges (ALJs) operate independently under the Administrative Procedure Act, 5 U.S.C. Subchapter II, to resolve cases involving alleged violations of the Shipping Act and other laws within the Commission's jurisdiction. Information on proceedings can be found in the [FMC Reading Room](#) on the FMC's website.

Charge Complaints: OSRA 2022 established a new avenue for relief for shippers called a charge complaint. The Commission must promptly investigate "information concerning complaints about charges assessed by a common carrier" and, if they are found to be unlawful, promptly issue refunds and penalties. The Commission established an interim process to receive, investigate, and evaluate charges paid to carriers that are not in compliance with the law. Of 101 complaints received, 37 complaints proceeded to the investigation stage. The investigations are ongoing, and complaints continue to come in. Guidance on this new process is available on the FMC website and additional education efforts will be undertaken as the process is refined and finalized.

Retaliation and Other Obstacles to Private Party Complaints: As recommended in the Fact Finding 29 Final Report, the Commission issued several policy statements to set forth its position on potential retaliation, awarding of attorney fees in Commission cases, and representational complaints filed by associations on behalf of their members. These policy statements were intended to clarify some uncertainties that were potentially inhibiting private parties from filing cases before the Commission. With the passage of OSRA 2022, the law now specifically prohibits retaliation against shippers who file complaints at the Commission, and any instances of alleged retaliation will be investigated and prosecuted swiftly and fully.

Alternative Dispute Resolution: Recently expanded and reinforced by OSRA 2022, the Office of Consumer Affairs and Dispute Resolution Services, assists the ocean shipping industry stakeholders, particularly shippers, to resolve disputes on an informal basis, saving consumers money and time. In FY 2022, CADRS responded to 1,496 inquiries from the public. Of that total, 302 ombuds or informal dispute resolution matters were handled: 143 related to commercial cargo, 34 involved household goods shipments, and 125 were cruise matters.

Organizational Management

The Commission recognizes the importance of effective, performance-oriented management and prudent employment of all allocated resources. The administrative support program required to effectuate the Commission's mission includes information technology services, human resources support, budget and financial planning, and procurement of goods and services.

Information Technology and Cybersecurity

The FMC's investments in its IT infrastructure, cloud tenant, and security posture allowed it to remain operational under maximum telework flexibilities during the ongoing COVID-19 pandemic and to meet cybersecurity requirements. The Commission benefited from experiences during the COVID-19 pandemic and will use the lessons learned to continue to develop and improve hybrid work capability.

FMC Systems/Applications. During FY 2022, the Commission assessed the progress of IT modernization initiatives to establish a new baseline for future development. The assessment identified emerging business requirements from internal and external stakeholders due to the changing use of technology. Motivated by requirements to protect against cybersecurity threats, the Commission began conducting a review of each system. This analysis, to be completed in FY 2023, will inform the decision to continue with customized applications or adopt other suitable commercial solutions are viable.

Case Management. To meet the goals of OSRA 2022 and our mission, research began during FY 2022 to upgrade antiquated internal systems and obtain new case management systems. Staff will use case management systems to track enforcement cases, investigatory matters, public inquiries, and filings. In addition to expedited response times and efficient tracking, the case management system that results from this research will allow the Commission to produce data to fulfill the various public reporting requirements of OSRA 2022.

Website Enhancements. In FY 2022, the Commission began updating its website to improve interaction with the public and comply with OSRA 2022 requirements. The website project will enhance public interaction with the FMC in a more secure environment, as well as provide new tools for the Commission to manage complaints and inquiries. When completed, the new website will allow the public to easily submit filings and inquiries.

Strengthening Federal Hiring

The Commission has encountered difficulty in attracting the requisite talent to fill vacancies for economists, industry analysts, and attorney advisors. OPM's automated USA Hire tool, which allows agencies to implement and use a skill and competency-based assessment to measure a candidate's ability to perform the job, is being used. The Commission is also reviewing areas that may improve recruitment and retention efforts.

The Commission has continued its partnership with the Surface Transportation Board (STB) to collaborate on a shared Equal Employment Opportunity Manager. This practice has been used since 2019 and has proven to be beneficial for both organizations.

To leverage talent, the Commission employed four interns through its Volunteer Service Program in FY 2022, which provides paid education-related work assignments for students.

Advancing Equity

The Commission supports the Administration's efforts to promote equity and remove barriers from underserved populations. As an independent agency, the Commission has voluntarily complied with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, and OMB Memo M-21-17, by conducting equity assessments of programs and services directed at the public. The Commission's Equity Action Plan sets timelines for further equity review and action for the public's access to FMC information and the FMC's acquisitions and contracting work. The agency will continue to consider steps to serve underprivileged groups and to ensure that the FMC is accessible to the public.

The FMC is voluntarily participating in Executive Order 14035, *Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce*, which is geared towards cultivating a workforce that draws from our Nation's full diversity and advancing equitable employment opportunities for individuals from underserved communities. The Commission's *Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan*, completed in FY 2022, outlines the FMC's strategy to support the people who carry out the FMC's mission. The DEIA Strategic Plan will ensure that the FMC continues to seek and promote best practices and opportunities to ensure diversity, equity, inclusion and accessibility in the agency's human resources practices and workforce composition.

Program Performance Overview

The Commission provides a performance plan to Congress, pursuant to the Government Performance and Results Act (GPRA). The FMC's new [Strategic Plan FY 2022-2026 \(updated March 28, 2022\)](#) (Strategic Plan) is posted on fmc.gov. The FY 2022 Annual Performance Report is presented in Section Two of this Report.

Achieving Strategic Goal Results

The Commission's Strategic Plan provides the foundation for planning and budgeting activities. The plan sets goals and objectives for each fiscal year and contains targets and measures linked to objectives via strategies. These objectives, strategies, targets, and measures drive the agency's budgetary process. During FY 2022, the Commission exceeded ten of its eleven performance targets.

Strategic Management of Human Capital

In FY 2022, the Commission continued to recruit and retain a talented staff while appropriately managing succession in the Commission's relatively small workforce.

Strong leadership remains a critical asset, particularly as the FMC looks to advance performance through organizational management, as outlined in our current Strategic Plan. The Commission continues to project the future needs to continue supporting mission requirements.

To advance performance, the FMC continues to support succession management by expanding leadership opportunities under the agency's Leadership Development Program and a newly created Senior Executive Leadership Development Program. The FMC also initiated a "Path to Leadership" program geared toward training FMC staff on the fundamentals of the Senior Executive Service through seminars and roundtable discussions. Additionally, functions across the Commission continue to be assessed to allow for career growth and advancement opportunities where possible. Continuous training and development in leadership competencies will prepare the next generation of leaders at the Commission.

Competitive Sourcing

The FMC submitted its FY 2021 Federal Activities Inventory Reform Act (FAIR Act) inventory to OMB in July 2022. The inventory identified 75 of the agency's 128 positions as commercial activity positions. No challenges to its commercial inventories have ever been received.

Expanded E-Government

The FMC worked diligently during the fiscal year to provide the public with exceptional customer service. Commission news, documents, and events were posted in a timely fashion. The website and social media will continue to be regularly updated, providing important information about the Commission's activities to the public.

Ongoing enhancement of the Commission's IT systems continued to bring efficiencies and process improvements across the agency. Public-facing web applications allowed the Commission to remain fully operational under maximum telework flexibilities during the pandemic and as staff began re-entry to the workplace. During FY 2022, the Commission began formulating the next edition of the *Information Technology Strategic Plan* (IT Strategic Plan) to identify opportunities to use technology solutions and resource allocations for ongoing and future needs. The updated IT Strategic Plan will leverage digital transformation and initiatives for continuous improvement of public facing and internal systems, striving to stay abreast of technology advances and evolving cybersecurity requirements through investments in commercial solutions wherever possible.

The Commission continued to work with the U.S. Department of Homeland Security (DHS) in provisioning technology infrastructure to comply with the Federal Risk and Authorization Management Program (FedRAMP) and DHS continuous monitoring requirements for network security. Internal security tools have been deployed to effectively monitor and address network operations, including file integrity; password sufficiency; and probing for open ports and other externally visible points of attack.

Financial Performance Overview

The FMC received an unmodified ("clean") opinion on its FY 2022 financial statements and will continue efforts to improve operations and achieve unmodified audit opinions in the future.

The Commission's financial condition as of September 30, 2022, is sound. Internal controls are in place to ensure that funds are used efficiently and effectively, and that the budget authority is not exceeded. The FMC's accounting services provider, the Department of Treasury's Bureau

of the Fiscal Service (BFS), prepared the financial statements as required by the Accountability of Tax Dollars Act of 2002. The statements have been prepared from, and are fully supported by, the books and records of the FMC in accordance with Federal Generally Accepted Accounting Principles (GAAP), standards approved by the Federal Accounting Standards Advisory Board (FASAB), and OMB Circular A-136, *Financial Reporting Requirements*.

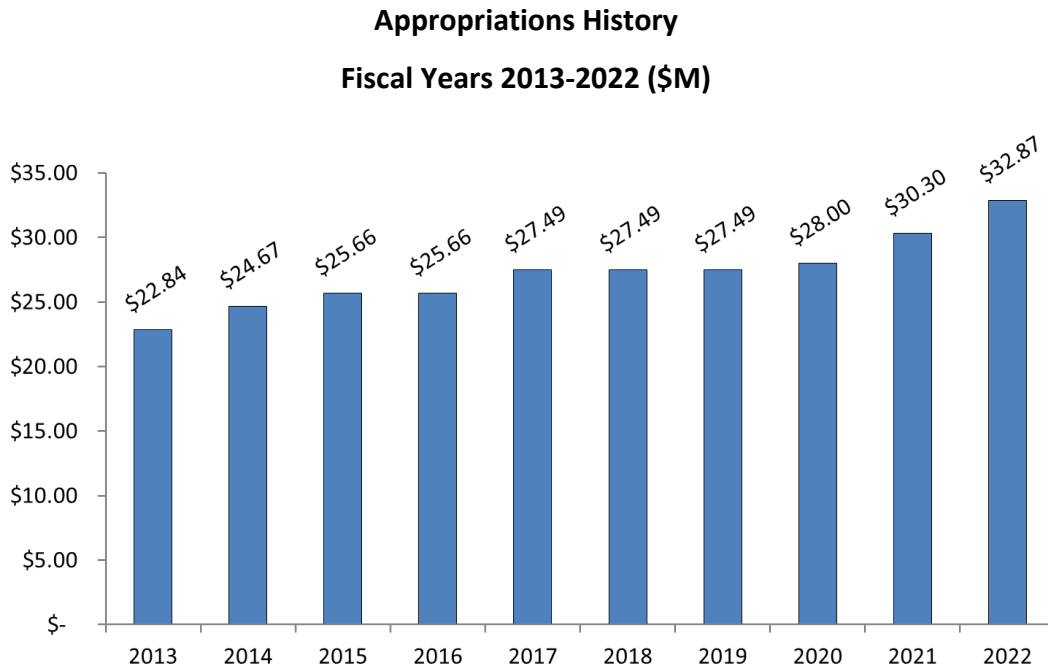
The principal financial statements provided in this document are prepared to report the financial position and results of the operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). Reports used to monitor and control budgetary resources are prepared from the same books and records.

Source of Funds

The FMC has a single source of funding for salaries and expenses, provided by an annual appropriation available for commitments and obligations incurred during the fiscal year in which the authority was granted. Congress approved FY 2022 appropriations for the FMC in the amount of \$32,869,000 through P.L. 117-103. This is an increase of \$2,569,000 over the FY 2021 appropriation level. Additionally, the Commission received reimbursements of \$216,332 for work performed by FMC's employees supporting other government agencies and provided \$40,500 to reimburse another government agency for resources to support implementation of requirements of OSRA 2022.

The FMC collects remittances for user fees and penalties; however, it is not authorized to offset any of its budget authority by using these funds. Collections are deposited directly into the Treasury General Fund. This information is captured in the Statement of Custodial Activity found in the *Financial Information* section of this report.

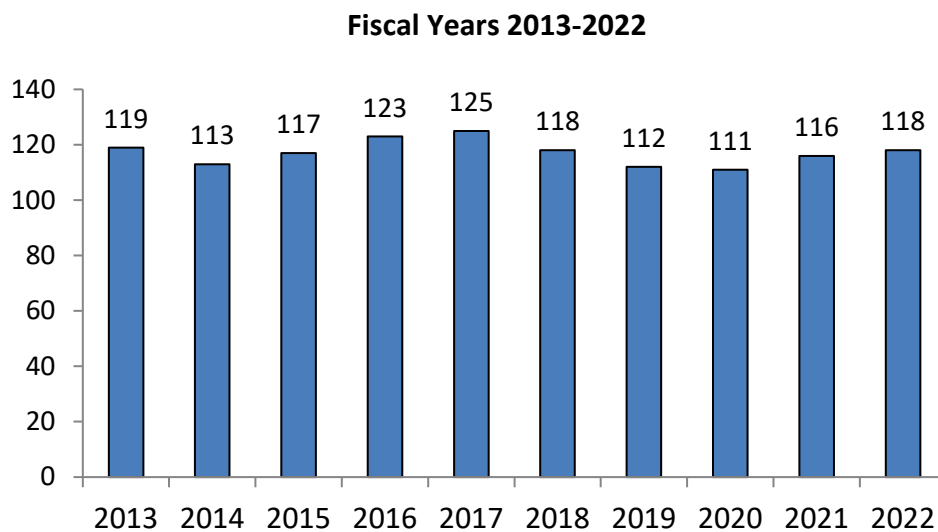
Appropriations History



Full-time Equivalent History

The FMC’s Full-time Equivalent (FTE) level is largely driven by its annual appropriation level. The FMC currently has its full complement of five statutorily-authorized Commissioners on board.

The continued fast pace of retirements and separations in FY 2022 resulted in a lower than anticipated FTE level, at 118.4 FTEs, with 122 employees on board at the fiscal year’s end. The Commission endeavors to fill vacancies and develop the appropriate mix of staffing and other available resources to ensure effective accomplishment of its mission.



Uses of Funds

During FY 2022, obligations against the FMC's appropriation totaled \$32.87 million representing 99.1 percent of the appropriation. Salaries and benefits are the single largest expense category at \$21.5 million, or 65.41 percent of the total budget. The second largest category, rent and building security services, is approximately \$4.4 million, or 13.4 percent of the total budget. Other administrative expenses and the Office of the Inspector General comprise the remaining 20.6 percent of the budget. The unexpended balance of \$0.484 million, or 1.4 percent of the total budget, will be retained for allocation to legitimate increases to existing FY 2022 obligations.

Audit Results

The FMC again received an unmodified ("clean") opinion on its FY 2022 financial statements from the auditing firm of Dembo Jones, P.C., under contract through the FMC's Office of the Inspector General. Comparative statements may be found in the *Financial Information* section of this report.

Financial Statement Highlights

The financial statements were prepared to report the financial position and results of operations of the Commission pursuant to the requirements of 31 U.S.C. § 3515(b). The statements were prepared from the books and records of the Commission in accordance with the formats prescribed by OMB.

The FMC's financial statements summarize the financial position and financial activity of the agency. The financial statements, footnotes, and the remainder of the required supplementary information appear in their entirety in the *Financial Information* section of this report. A brief analysis of the principal statements follows.

Summary of Assets

The FMC's assets were \$11,442,908 as of September 30, 2022. This represents an increase of \$2,949,933 from FY 2021. The FMC's assets reported on the balance sheet are summarized in the following table.

Summary of Assets as of September 30, 2022		
	2022	2021
Fund Balance with Treasury	\$11,361,461	\$8,407,506
Accounts Receivable	\$81,447	\$85,469
Capital Assets	\$0	\$0
Other	\$0	\$0
Total Assets	\$11,442,908	\$8,492,975

The Fund Balance with Treasury of \$11,361,461 represents the FMC's largest asset and comprises 99 percent of the agency's total assets. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable, as of September 30, 2022, totaled \$81,447 for outstanding receivables billed to both Federal and non-Federal entities. This accounts for 1 percent of the FMC's assets.

Capital Assets, also known as Property, Equipment, and Software, account for 0 percent of the FMC's total assets as of September 30, 2022. The net value of \$0 accounts for the depreciation of all assets and represents the current book value of those assets.

Summary of Liabilities

The FMC's liabilities totaled \$3,476,822 as of September 30, 2022, a decrease of \$255,092 from FY 2021. A portion of the decrease is due to a reduction in accounts payable. The FMC's assets reported on the balance sheet are summarized in the table below.

Summary of Liabilities as of September 30, 2022		
	2022	2021
Accounts Payable	\$346,715	\$725,160
Payroll Taxes	\$369,431	\$335,890
Federal Employee Benefits	\$1,716,095	\$1,719,295
Custodial Liabilities	\$0	\$0
Accrued Liabilities	\$1,044,581	\$951,569
Total Liabilities	\$3,476,822	\$3,731,914

The FMC's Accounts Payable, as of September 30, 2022, was \$346,715. This represents the funds owed for goods and services received from vendors. The accrued liabilities of \$3,476,822 represent future costs, such as accrued annual and sick leave balances and workers' compensation that are not covered by current budgetary resources. Accumulated leave costs are recognized as they are taken, and workers' compensation costs are recognized as they are paid out.

Analysis of Changes in Net Position Summary

The Changes in Net Position Summary is a summary of two factors, Unexpended Appropriations and Cumulative Results of Operations. The total net position for FY 2022 is the result of a \$3,205,025 increase from FY 2021.

Changes in Net Position Summary as of September 30, 2022		
	2022	2021
Unexpended Appropriations	\$9,608,620	\$6,410,608
Cumulative Results of Operations	(\$1,642,534)	(\$1,649,547)
Total Changes in Net Position	\$7,966,086	\$4,761,061

Unexpended Appropriations represent the amount of unobligated and unexpended budget authority for the 5-year period ending on September 30, 2022. Unobligated budget authority is the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation for the same period. The Cumulative Results of Operations (the cumulative excess of financing resources over expenses) is the net result of FMC's operations for all active fiscal years.

Analysis of Net Cost Summary

The Net Cost Summary represents the net cost of FMC's Programs as identified in the Annual Report.

Net Cost Summary as of September 30, 2022		
	2022	2021
Operational and Administrative	\$29,729,508	\$30,224,530
Office of Inspector General	\$573,313	\$526,311
Total Net Cost	\$30,302,821	\$30,750,841

The agency's two programs are Operational and Administrative and Office of the Inspector General. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations. Net Costs compared to Budgetary Resources can be found in the *Financial Information* section of this report. This table reflects costs attributable to all active fiscal years (2018-2022).

Analysis of the Statement of Budgetary Resources

Statement of Budgetary Resources as of September 30, 2022		
	2022	2021
Incurred	\$32,899,803	\$30,247,419
Unobligated Balance Unavailable	\$2,390,486	\$2,458,280
Unobligated Balance Available	\$484,454	\$238,875
Total Budgetary Resources	\$35,774,743	\$32,944,574

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources, the status of those resources at the end of the reporting period, and the relationship between the two. Total budgetary resources should equal the status of budgetary resources at all times. A more detailed SBR can be found in the *Financial Information* section of this report. During FY 2022, the FMC had a total of \$35,774,743 available, representing an increase in

budgetary resources of \$2,830,169 from FY 2021. The budgetary resources represent financial activity during the accounting period for the five active fiscal years (2018-2022).

Systems, Control, and Legal Compliance Analysis

The Commission's internal controls are fundamental to the systems and processes used to manage its operations and achieve its strategic goals. The Chairman's *Statement of Assurance* in the following section notes that there are no material weaknesses or instances of nonconformance to report for FY 2022.

Additionally, in accordance with the requirements of OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, the Commission's Enterprise Risk Management Committee identifies, measures, and assesses risk points across the agency. The Committee's risk profile is used in conjunction with existing internal controls to improve the Commission's accountability and effectiveness.

Management Assurances

The Federal Managers' Financial Integrity Act (FMFIA or Act) mandates that agencies establish controls that reasonably ensure that:

- obligations and costs comply with applicable laws,
- assets are safeguarded against waste, loss, unauthorized use, or misappropriation, and
- revenues and expenditures are properly accounted for and recorded.

This Act encompasses program, operational, and administrative areas, as well as accounting and financial management. FMFIA requires that the Chairman provide a statement assuring the adequacy of management controls and conformance of financial systems with Government-wide standards; that the Commission's managers are held accountable for efficient and effective performance of their duties in compliance with applicable laws and regulations; and that maintenance of the integrity of management activities is achieved through the use of controls.

Chairman Maffei has provided his annual assurance statement in this report based on various sources, including knowledge of the daily operation of Commission programs and activities; regular discussions with the Managing Director, the Director of Enterprise Services, the Directors of the Offices of Budget and Finance and Management Services; audits of the financial statements; and implementation of the Commission's Strategic Plan. The Chairman also meets regularly with the Commission's Senior Management Team and receives regularly-scheduled reports from the FMC's Office of the Inspector General and Office of Equal Employment Opportunity Director.

Deficiencies identified in management control would be addressed at the Commission's highest management levels. For example, corrective actions for significant deficiencies identified in the IT area would be overseen directly by the agency's Chief Information Officer (CIO).

During the fiscal year, the Office of the Inspector General (OIG) identified no significant deficiencies and there were no significant management decisions made on which the OIG

disagreed. Management and the OIG reached agreement on all audit recommendations. Management resolved or worked to address a number of recommendations and will continue this work during FY 2023.

Debt Collection Improvement Act of 1996

The Debt Collection Improvement Act (DCI) enhanced the ability of the government to service and collect debts, as it centralized the collection of non-tax delinquent debt owed to the government. Federal agencies are required to refer delinquent accounts in excess of 180 days to Treasury for collection. Collection of the Commission's delinquent debts is conducted by the Bureau of the Fiscal Service through the Cross-Servicing Program and Treasury Offset Program, where the names and taxpayer identification numbers (TIN) of the delinquent entities are matched against the TINs of recipients of government payments. The balance owed to the government is deducted or offset from the payment to the entity to satisfy the debt. The goal is to minimize the amount of delinquent debt owed to the government. During FY 2022, the FMC effectively managed debt collection in accordance with the DCI and delinquent accounts were timely submitted to Treasury.

Digital Accountability and Transparency Act of 2014 (DATA Act)

The DATA Act, an amendment to the Federal Funding Accountability and Transparency Act of 2006 (Public Law No. 109-282), required the establishment of government-wide data standards for spending information that agencies report to Treasury, OMB, and the General Services Administration (GSA). The Commission began reporting standardized spending information on May 9, 2017. Additionally, the DATA Act required Treasury and OMB to publish standardized spending information for free access and download on the government's [USASpending.gov](https://www.USASpending.gov) website beginning on May 9, 2018.

Fiscal year 2022 was the fifth year of DATA Act implementation. Working closely with its Federal Shared Service Provider, the Administrative Resource Center (ARC) at the Bureau of the Fiscal Service (BFS), the FMC complied with all requirements and timely submitted all DATA Act certifications.

In November 2021, the OIG completed a third audit of the Commission's DATA Act compliance. This audit found improvement in the quality of procurement information reported and that error rates for completeness, accuracy, and timeliness had improved. Recommendations made in the 2019 audit for enhancing the Commission's Data Quality Plan were incorporated, implemented, and found to be effective by the OIG. Based on the results of the OIG's testing for the FMC's DATA Act audit for Q4 FY 2020, the FMC scored 97.80 points, which is a quality rating of excellent.

Prompt Payment Act of 1982

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2022, the FMC maintained a 100 percent on-time payment rate and paid \$0 in interest payments.

Performance Measure Summary

The Commission does not have an in-house financial accounting system and, therefore, does not receive a Performance Measure Summary from the Department of the Treasury. The Commission acquires travel, procurement, accounting, and financial services from the Bureau of Fiscal Services, and verifies and reconciles all financial statements and reports prior to submission.

Inspector General Act and Inspector General Reform Act

Section 5(b) of the Inspector General Act of 1978 requires agencies to report on final actions taken on OIG audit recommendations. Action was taken to close all audit recommendations during the year. No significant deficiencies or material weaknesses were identified during FY 2022.

Inspector General-Issued Audits -- FY 2022		
A22-01: DATA Act Audit, 2021		
<u>Date Issued</u>	<u>Recommendations</u>	<u>Remediated in FY 2022</u>
November 2021	0	N/A
A22-02: Audit of the FMC's Compliance with the Federal Information Security Modernization Act FY 2021		
<u>Date Issued</u>	<u>Recommendations</u>	<u>Remediated in FY 2022</u>
October 2021	1	1
A22-03: Independent Auditors' Report of the FMC's FY 2021 Financial Statements		
<u>Date Issued</u>	<u>Recommendations</u>	<u>Remediated in FY 2022</u>
November 2021	0	N/A

Treasury Assurance Statement – USA Spending Reconciliation

The FMC has implemented its plan to ensure data completeness and accuracy on www.USASpending.gov by using control totals with financial statement data and comparing samples of financial data to actual award documents. The prime Federal award financial data reported on www.USASpending.gov is correct at the reported percentage of accuracy, and the FMC has adequate internal controls over the underlying spending.

Limitations of the Financial Statements

The principal financial statements are prepared to report the financial position and results of operations of the Commission, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from the books and records of the Commission in accordance with Federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same books and records. The financial statements should be read with the understanding that they are for a component of the U.S. Government.

Federal Managers' Financial Integrity Act Statement of Assurance

The Federal Maritime Commission is responsible for managing risks and maintaining effective internal control and financial management systems to meet the objectives of Sections 2 and 4 of the Federal Managers' Financial Integrity Act. This includes conducting assessments to determine the effectiveness of internal control and conformance with financial system requirements. The Commission conducted its assessments in accordance with OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*.



These assessments considered the effectiveness of internal control over operations, risk management, financial reporting, and compliance with applicable laws and regulations. The objectives are to ensure the effectiveness and efficiency of operations, the reliability of reporting for internal and external use, and compliance with applicable laws and regulations.

Based on the results of this assessment, I can provide reasonable assurance that the Commission's internal control over operations, risk management, financial reporting, and compliance were operating effectively as of September 30, 2022. No material weaknesses were found in the design or operation of internal control over financial reporting.

The Commission assessed its financial management systems' conformance with financial system requirements, in accordance with the requirements of OMB Circular No. A-123, Appendix D. Based on this assessment, I can provide reasonable assurance that the FMC's financial management systems conform to these requirements and that no material non-conformances or instances of noncompliance were identified.

/s/

Daniel B. Maffei
Chairman
November 15, 2022



Annual Performance Report

Introduction

The FMC's performance management system includes specific strategic goals, performance measures, and targets. The strategic goals represent the FMC's mission and reflect the overall outcomes and objectives the agency strives to achieve. This report describes progress towards performance targets in FY 2022 in furtherance of the Commission's mission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

During 2021, the FMC engaged in a systematic strategic planning process which included reviewing the FY 2018-2022 Strategic Plan; assessing the mission statement; conducting a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis; and assessing whether measures and targets under the FY 2018-2022 Strategic Plan continued to provide appropriate performance measures considering the changes that were being observed in the supply chain. Based on that comprehensive process, which included the opportunity for public and Congressional comment, the FMC developed a new Strategic Plan covering fiscal years 2022-2026.

This strategic planning process validated retention of the Commission's two previous strategic goals as broad outcomes that the Commission should continue to achieve consistent with its statutory mandate. The FMC's strategic planning process refined and focused several of the strategies and measures and added a stewardship objective that supports the mission activities across the Commission. This new objective focuses on human resources, information technology (IT), contracting and property management, and financial management. Each of these important functions are subject to their own stringent planning and measuring regimes pursuant to various laws and executive mandates.

While both strategic goals from the FMC's previous strategic plan were retained, a new objective and two new measures to support Strategic Goal One replaced the previous objective and measure under this Strategic Goal. The four objectives and associated measures under Strategic Goal Two were brought forward and included in the Commission's Strategic Plan for FY 2022-2026. The strategic goals and objectives are as follows.

Strategic Goal 1: Maintain a Competitive and Reliable International Ocean Transportation Supply System.

- Ensure no unreasonable increases in transportation costs or decreases in transportation service are attributed to anticompetitive practices under FMC-filed agreements.
- Ensure competition is preserved in the purchase of certain covered services (46 U.S.C. § 40102(5)) through 46 U.S.C. § 40307 authorities.

Strategic Goal 2: Protect the Public from Unlawful, Unfair, and Deceptive Ocean Transportation Practices.

- Identify and take action to end unlawful, unfair, and deceptive practices.
- Prevent public harm through licensing and financial responsibility requirements.
- Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.
- Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication.

Stewardship Objective: Advance the FMC's Performance Through Excellence in Organizational Management.

- Strengthen infrastructure and effective resource management.
- Foster a high performing, engaged, and diverse workforce where staff understand how their efforts contribute to the goals of the Commission.

Each measure, target, and actual result is reported in Table 1 and includes a description of the data used to measure performance and an explanation of the procedures in place to validate and ensure integrity of the reported result. Eleven performance measures in support of the strategic goals and seven stewardship objectives were quantitatively measured during the fiscal year. Despite adjustments made to some business processes in reaction to the COVID-19 pandemic, the Commission exceeded 10 of its 11 FY 2022 targets. The second target under Strategic Goal 2 was not met. This measure will be adjusted when the Strategic Plan is reviewed in 2023 to align with shifted priorities due to recent industry developments as discussed in the previous section of this report.

Table 2 presents the Commission's five-year performance trend data. The Commission's commitment to continuously improve and streamline processes is evidenced in its year-over-year positive performance results.

Table 3 presents the first year of performance data for the Commission's new stewardship objective. The Commission's commitment to organizational excellence will guide its efforts and ensure that its mission is efficiently and effectively carried out, and that it serves the public.

This Performance and Accountability Report (inclusive of this Annual Performance Report) has been forwarded to the President, OMB Director, appropriate Congressional committees, and others as dictated by OMB Circular A-136, Revised. Additionally, this report has been placed on the FMC's public website to ensure that it is accessible to interested parties. All Commission employees have been advised to review this report.

Table 1: Summary of Performance Measure Results – FY 2022

Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.		
Objectives, Performance Measures, and Validations	FY 2022 Target	FY 2022 Actual
Objective 1.1: Ensure no unreasonable increases in transportation costs or decreases in transportation services are attributed to anticompetitive practices under FMC-filed agreements.		
<p>Measure: Percentage of newly-filed vessel sharing agreements and amendments to agreements analyzed and presented to the Commission within 32 days.</p> <p>Validation: This outcome goal is measured using data from the eAgreements electronic filing system and tracking the time elapsed between the agreement submission and review.</p>	85%	100%
<p>Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information, including market-distorting behavior.</p> <p>Validation: This outcome goal is measured using data contained in the eMonitoring system used for the electronic filing of agreement monitoring submissions. Performance is measured by comparing the file receipt date to the date that the filing was reviewed by staff analysts.</p>	80%	100%
Objective 1.2: Ensure competition is preserved in the purchase of certain covered services (46 U.S.C. § 40102(5)) through 46 U.S.C. § 40307 authorities.		
<p>Measure: Percentage of alternative agreement reports indicating joint contracting/ procurement of covered services analyzed and escalated to regular monitoring status within 30 days of receipt to ensure systematic analysis of data for actionable information.</p> <p>Validation: This outcome is measured using regulated entities’ data. Performance is measured by reviewing information received and identifying whether reports indicating covered services are moved from this system to the eMonitoring system within 30 days.</p>	>95%	100%
Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices.		
Objectives, Performance Measures, and Validations	FY 2022 Target	FY 2022 Actual
Objective 2.1: Identify and take action to end unlawful, unfair, and deceptive practices.		
<p>Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through compliance audits, judgments, settlements, compromise agreements, or issuance of default judgments, that are favorable to the FMC’s enforcement program.</p> <p>Validation: This outcome goal is measured by examining enforcement case inventory and counting the number of cases resolved.</p>	77.5%	77.8%
<p>Measure: Percentage of contacted unlicensed OTIs that submit license applications within one year after pre-enforcement contact and education from an area representative.</p> <p>Validation: This outcome goal is measured by correlating prior fiscal year area representatives’ approved pre-enforcement case inventories with the current fiscal year data and notices on the status of ocean transportation intermediary licenses. This data is collected and maintained by the Bureau of Certification and Licensing on the Regulated Persons Index and the list of FMC Licensed & Bonded OTIs.</p> <p>Explanation: Generally, area representatives (ARs) would conduct outreach, education, and open investigations aimed at promoting higher awareness of statutory and regulatory requirements as well as receive complaints from the industry regarding unlicensed OTI activity. Due to changes in operations due to the COVID-19 pandemic, the industry and</p>	10%	0%

<p>Commission shifted priorities to focus on identifying operational solutions to cargo delivery system challenges and pursuing carrier or MTO actions leading to unjust or unreasonable detention and/or demurrage charges and now, with the passage of OSRA 22 in June 2022, the new charge complaint process. Further, the AR positions have been redesignated as investigators, essentially eliminating their prior outreach and education obligation. Moreover, the entire investigative program has been restructured, with a mandate to focus on high-impact violations. This performance measure can no longer be conducted by the investigative program and should be eliminated, shifted, and re-written to BCL to report data related to the notices on the status of OTI licenses.</p>		
<p>Objective 2.2: Prevent public harm through licensing and financial responsibility requirements.</p>		
<p>Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with appropriate character and experience requirements. Validation: This outcome goal is measured by comparing the total number of OTI applications assigned to an analyst (X) and the number of applications completed by an analyst on or before the 60th calendar day following assignment (Y) during a specific time period. The outcome goal is calculated as $(Y / X) \times 100 = \%$.</p>	75%	96%
<p>Measure: Percentage of license renewals completed on or prior to the 3-year renewal deadlines to timely verify regulatory compliance. Validation: The Completion Status Report, generated in the license renewal system, provides the total number of renewals completed (X) and the number of renewals completed on or before the renewal deadline (Y) during a specific time period. The outcome goal is calculated as $(Y / X) \times 100 = \%$.</p>	75%	87%
<p>Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from nonperformance or casualty. Validation: This outcome goal is measured by comparing reported financial coverage amounts against required coverage amounts. Operators covered by this program file semi-annual, monthly, and weekly unearned passenger revenue reports. This information is used to compare reported coverage against required coverage amounts.</p>	95%	96%
<p>Objective 2.3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.</p>		
<p>Measure: Percentage of Commission issuances, orders, and reports available through the Commission’s website within 5 working days of receipt. Validation: This outcome goal is measured by reviewing the workflow processes for posting documents to the Commission’s website docket activity logs. The date that each docket activity log is updated with new filings or issuances is compared to the date the document is filed with or issued by the Commission in a particular proceeding.</p>	90%	91%

Table 1: Summary of Performance Measure Results – FY 2022 - continued

Objective 2.4: Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication.		
<p>Measure: Percentage of dispute resolution matters closed within 6 months of request for assistance.</p> <p>Validation: This outcome goal is measured using data maintained by the Commission on each dispute resolution matter opened. Cases are opened upon the request of the public for assistance and are subject to the normal fluctuations in businesses and consumers seeking help from the Commission. Cases are closed upon resolution, voluntary termination by the parties, refusal to participate or failure to respond by a party, or when the CADRS mediator determines that particular issues prevent the possibility for successful resolution.</p>	67%	100%
<p>Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within 2 years of filing or Commission initiation.</p> <p>Validation: This outcome goal is measured by using docket activity logs maintained by the Commission and used for docket management, and monthly and annual reporting purposes.</p>	72%	86%

Stewardship Objective – Advance the FMC’s performance through excellence in organizational management.		
Objectives, Performance Measures, and Validations	FY 2022 Target	FY 2022 Actual
Stewardship Sub-objective 1: Strengthen infrastructure and effective resource management.		
S.1.1 Manage risks and continue mission essential operations.		
<p>Measure: COOP activities, including annual training, notification exercises, and an annual COOP exercise are conducted throughout the year consistent with the FMC COOP Plan.</p> <p>Validation: Complete and document all activities between July 1 and June 30. Sources include annual training materials, sign-in sheets/confirmation emails, and after-action reports.</p>	100%	100%
S.1.2 FMC’s financial management systems and practices demonstrate fiscal responsibility and proper accounting.		
<p>Measure: Achieve an unmodified (clean) opinion from the independent auditor on the Commission’s fiscal year’s end financial statements. (Data: Office of the Inspector General Independent Auditor’s Report.)</p> <p>Validation: This outcome goal is an unmodified (clean) opinion by the Office of the Inspector General based on the findings from the independent auditor’s review of the FMC’s annual financial statements and internal controls over financial reporting. Each year, the independent auditor reviews approximately 75 processes, documents, procedures, checklists, transaction types, and reports that are all considered in the overall assessment.</p>	100%	100%
S.1.3 Information Technology is optimized and IT systems are protected.		
<p>Measure: Percentage of overall cybersecurity compliance with mandates that are issued.</p> <p>Validation: This objective is measured through the report card from the Cybersecurity and Infrastructure Security Agency (CISA).</p>	100%	100%

S.1.4 Maintain the Commission’s cloud-based website to allow industry access to FMC resources and applications.		
Measure: FMC website uptime percentage. Validation: This objective is measured through the Commission’s Azure server uptime report.	99.5%	99.5%
Stewardship Sub-objective 2: Foster a high performing, engaged, and diverse workforce where staff understand how their efforts contribute to the goals of the Commission.		
S.2.1 Management promotes a culture that is open, diverse, inclusive, and engaged.		
Measure: Benchmarking EEI index is above the average for small agencies; no more than 10% drop from the prior year. Validation: Annual employee responses from the Federal Employee Viewpoint Survey (FEVS).	>-10%	2%
Measure: Benchmarking FEVS results tied to results-oriented performance culture. Validation: Annual employee responses from the FEVS.	>75%	93%
S.2.2 Management promotes a results-oriented performance culture.		
Measure: Percent of staff with the majority of (3 or more expectations per performance element) performance goals rated as meeting the characteristics of a specific, measurable, achievable, realistic, and timely (SMART) goal. Targets are for non-SES/non-supervisory staff. SES and supervisor targets will exceed listed staff targets. Validation: Review of performance plans each performance year.	25%	30%

Table 2: Performance Measure Trends, FY 2018-2022

Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.					
Performance Measure	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Measure: Percentage of newly filed vessel sharing agreements and amendments to agreements analyzed and presented to the Commission within 32 days.					
TARGET	N/A	N/A	N/A	N/A	85%
ACTUAL	N/A	N/A	N/A	N/A	100%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	MET
Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information, including market-distorting behavior.					
TARGET	65%	66%	67%	68%	80%
ACTUAL	89%	79%	91%	85%	100%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of alternative agreement reports indicating joint contracting/procurement of covered services analyzed and escalated to regular monitoring status within 30 days of receipt to ensure systematic analysis of data for actionable information.					
TARGET	N/A	N/A	N/A	N/A	>95%
ACTUAL	N/A	N/A	N/A	N/A	100%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	MET
Measure: Percentage of FMC-filed agreements reviewed at Commission level which are modified through negotiation to mitigate anticompetitive effects.					
TARGET	50%	51%	52%	53%	N/A
ACTUAL	100%	67%	60%	20%	N/A
TARGET MET/UNMET	MET	MET	MET	UNMET	N/A
Measure: Percentage share of U.S. containerized cargo moving on other agreement parties’ vessels in major U.S. trades.*					
TARGET	N/A	N/A	N/A	N/A	N/A
ACTUAL	N/A	N/A	N/A	N/A	N/A
TARGET MET/UNMET	N/A	N/A	N/A	N/A	N/A

Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices.					
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through compliance audits, judgments, settlements, compromise agreements, or issuance of default judgments, that are favorable to the FMC's enforcement program.					
TARGET	N/A	N/A	N/A	N/A	77.5%
ACTUAL	N/A	N/A	N/A	N/A	77.8%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	MET
Measure: Percentage of contacted unlicensed OTIs that submit license applications within one year after pre-enforcement contact and education from an area representative. **					
TARGET	N/A	N/A	N/A	N/A	10%
ACTUAL	N/A	N/A	N/A	N/A	0%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	UNMET
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with appropriate character and experience requirements.					
TARGET	75%	75%	75%	75%	75%
ACTUAL	97%	96%	88%	98.8%	96%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of license renewals completed on or prior to the 3-year renewal deadlines to timely verify regulatory compliance.					
TARGET	N/A	N/A	N/A	N/A	75%
ACTUAL	N/A	N/A	N/A	N/A	87%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	MET
Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from nonperformance or casualty.					
TARGET	95%	95%	95%	95%	95%
ACTUAL	99%	96%	96%	97.9%	96%
TARGET MET/UNMET	MET	MET	MET	MET	MET

Table 2: Performance Measure Trends, FY 2018-2022 continued

Measure: Percentage of Commission issuances, orders, and reports available through the Commission’s website within 5 working days of receipt.					
TARGET	84%	84%	86%	88%	90%
ACTUAL	97%	99%	100%	99%	91%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of dispute resolution matters closed within 6 months of request for assistance.					
TARGET	N/A	N/A	N/A	N/A	67%
ACTUAL	N/A	N/A	N/A	N/A	100%
TARGET MET/UNMET	N/A	N/A	N/A	N/A	MET
Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within 2 years of filing or Commission initiation.					
TARGET	64%	66%	68%	70%	72%
ACTUAL	38%	43%	100%	75%	86%
TARGET MET/UNMET	UNMET	UNMET	MET	MET	MET
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.					
TARGET	77.5%	77.5%	77.5%	77.5%	N/A
ACTUAL	85.8%	97%	93%	90.3%	N/A
TARGET MET/UNMET	MET	MET	MET	MET	N/A
Measure: Percentage of Ombuds and ADR matters closed within 6 months of request for assistance.					
TARGET	60.5%*	61%	63%	65%	N/A
ACTUAL	97%	98%	99.59%	100%	N/A
TARGET MET/UNMET	MET	MET	MET	MET	N/A
Measure: Number of cases opened and closed each fiscal year using Ombuds and ADR services assisting consumers to recover goods or funds. ***					
TARGET	N/A	N/A	N/A	N/A	N/A
ACTUAL	N/A	N/A	N/A	N/A	N/A
TARGET MET/UNMET	N/A	N/A	N/A	N/A	N/A

* This measure was replaced by the first 2 new measures listed under Strategic Goal No. 1 in the Commission’s FY 2018-2022 Strategic Plan. For additional historical data on this measure, see Commission PARs posted on its website.

**This measure will be adjusted to align with revised priorities when the Strategic Plan is reviewed in 2023.

***To more accurately reflect the FMC’s performance in this area, this measure was replaced in FY 2017. For additional historical data on this measure, see Commission PARs posted on its website.

Table 3: Stewardship Objective Trends, 2022-2026

Stewardship Objective: Advance the FMC's performance through excellence in organizational management.					
Performance Measure	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Measure: COOP activities, including annual training, notification exercises, and an annual COOP exercise are conducted throughout the year consistent with the FMC COOP Plan.					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%				
TARGET MET/UNMET	MET				
Measure: Achieve an unmodified (clean) opinion from the independent auditor on the Commission's fiscal year's end financial statements. (Data: Office of the Inspector General Independent Auditor's Report.)					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%				
TARGET MET/UNMET	MET				
Measure: Percentage of overall cybersecurity compliance with mandates that are issued					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%				
TARGET MET/UNMET	MET				
Measure: FMC website uptime percentage.					
TARGET	99.5%	99.5%	99.5%	99.5%	99.5%
ACTUAL	99.5%				
TARGET MET/UNMET	MET				
Measure: Benchmarking EEI index is above the average for small agencies; no more than 10% drop from the prior year.					
TARGET	>-10%	>-10%	>-10%	>-10%	>-10%
ACTUAL	2%				
TARGET MET/UNMET	MET				
Measure: Benchmarking FEVS results tied to a results-oriented performance culture.					
TARGET	>75%	>75%	>75%	>75%	>75%
ACTUAL	93%				
TARGET MET/UNMET	MET				
Measure: Percent of staff with the majority of (3 or more expectations per performance element) performance goals rated as meeting the characteristics of a specific, measurable, achievable, realistic, and timely (SMART) goal. Targets are for non-SES/non-supervisory staff. SES and supervisor targets will exceed listed staff targets.					
TARGET	25%	50%	98%	99%	99%
ACTUAL	30%				
TARGET MET/UNMET	MET				



Financial Information

Message from the Chief Financial Officer/Director, Enterprise Services

I am pleased to present this Financial Information for Fiscal Year 2022, and to report that, for the 19th consecutive year, an independent auditor has rendered an unmodified opinion on the FMC's financial statements, identifying no deficiencies in internal control over financial reporting considered to be material weaknesses. The auditor's tests for compliance with selected provisions of applicable laws, regulations and contracts disclosed no instances of noncompliance for FY 2022 reportable under U.S. generally accepted government auditing standards. This demonstrates the Commission's continuous record as a diligent steward of taxpayer dollars maintaining high standards for the financial management of resources entrusted to it.



The financial statements and related notes were prepared in conformity with accounting principles generally accepted in the U.S., and requirements of OMB Circular A-136, *Financial Reporting Requirements*, revised June 3, 2022, and fairly present the Commission's financial position.

The FMC's financial condition is sound, and its internal controls are sufficient to ensure that its budget authority is not exceeded, and that funds are used efficiently and effectively. The following key accomplishments demonstrate the effectiveness and efficiency of the FMC's acquisition and financial functions during Fiscal Year 2022:

- A continuous record of no material weaknesses, significant control deficiencies, or nonconformance with the FMFIA and other applicable laws and regulations;
- Collecting, in civil enforcement proceedings and user fees, \$2,335,235;
- Continued focus on internal controls and risk management, as mandated by OMB Circular A-123, providing budget information in concise, reliable, and understandable formats;
- Accurate, timely issuance of financial statements as required by the Accountability of Tax Dollars Act of 2002, prepared from, and fully supported by, the books and records of the FMC in accordance with Generally Accepted Accounting Principles, standards approved by the Federal Accounting Standards Advisory Board, and OMB Circular A-136; and
- Successful implementation of the Digital Accountability and Transparency Act of 2014 (DATA Act), which provides detailed information on the FMC's careful stewardship of resources on the USASpending.gov website.

I am proud of the FMC's exemplary track record and the management of its resources. I remain confident that the high level of quality financial management at the Commission will continue in the coming fiscal years, and that we will continue to enhance operational efficiency while protecting the interest of the American shipping public.

/s/

Patrick M. Moore

Chief Financial Officer/Director, Enterprise Services

November 15, 2022

Principal Financial Statements

The principal financial statements presented include:

- Balance Sheet – Presents the combined amounts the agency had to use or distribute (assets) versus the amounts the agency owed (liabilities), and the difference between the two (net position);
- Statement of Net Cost – Presents the annual cost of agency operations determined by reducing gross cost by any offsetting revenue;
- Statement of Changes in Net Position – Presents the accounting activities that caused the change in net position during the reporting period;
- Statement of Budgetary Resources – Presents how budgetary resources were made available and the status of those resources at fiscal year-end; and
- Statement of Custodial Activity – Presents collections and their disposition by the agency on behalf of the Treasury General Fund. The FMC acts as custodian and does not have use of these funds.

Limitations of the Financial Statements

As stated in the previous section, the principal financial statements have been prepared to report the financial position and results of operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the agency in accordance with GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity. Therefore, liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and the payment of all liabilities other than for contracts can be abrogated by the sovereign entity. Other limitations are included in the footnotes to the principal statements. The accompanying notes are an integral part of these statements.

The Federal Maritime Commission's financial statements were audited by Dembo Jones, P.C., under contract to the FMC's Office of the Inspector General.

Financial Statements & Independent Auditor Report



FEDERAL MARITIME COMMISSION

Washington, DC 20573

November 15, 2022

Office of Inspector General

Dear Chairman Maffei and Commissioners Dye, Sola, Bentzel, and Vekich:

I am pleased to provide the attached audit report required by the Accountability for Tax Dollars Act of 2002 (ATDA), which presents an unmodified (clean) opinion on the Federal Maritime Commission's (FMC) fiscal year (FY) 2022 and 2021 financial statements. The audit results indicate that the FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. The Office of Inspector General (OIG) commends the FMC for the noteworthy accomplishment of attaining an unmodified opinion.

The OIG contracted with the independent certified public accounting firm Dembo Jones, P.C. to: perform the audit of the FMC's financial statements for the fiscal years ending September 30, 2022 and 2021; consider internal control over financial reporting; and test the agency's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on the financial statements. The OIG contract required that the audit be performed in accordance with U.S. Generally Accepted Government Auditing Standards and Office of Management and Budget (OMB) audit guidance.

In its audit of the FMC, Dembo Jones found: the financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles; there were no material weaknesses or significant deficiencies in internal control over financial reporting; and no reportable noncompliance issues with the laws and regulations tested.

In connection with the OIG's contract, the OIG reviewed Dembo Jones' report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. Generally Accepted Government Auditing Standards, was not intended to enable the OIG to express, and we do not express, opinions on FMC's financial statements or internal control; or conclusions on compliance with laws and regulations. Dembo Jones is responsible for the attached auditors' report dated November 15, 2022 and the conclusions expressed in the report. However, our review disclosed no instances where Dembo Jones did not comply, in all material respects, with Generally Accepted Government Auditing Standards.

The OIG would like to thank FMC staff, especially the Office of Budget and Finance, for their assistance in helping Dembo Jones and the OIG meet the audit objectives.

Respectfully submitted,

/s/

Jon Hatfield

Inspector General

Attachment

cc: Office of the Managing Director
Office of the General Counsel
Office of Budget and Finance

Independent Auditors' Report

DEMBO JONES

CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

INDEPENDENT Auditor's Report

To Chairman Daniel B. Maffei
Federal Maritime Commission

In our audits of the fiscal years 2022 and 2021 financial statements of Federal Maritime Commission (FMC) we found:

- FMC's financial statements as of and for the fiscal years ended September 30, 2022, and 2021, are presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles;
- no material weaknesses in internal control over financial reporting based on the limited procedures we performed;¹ and
- no reportable noncompliance for fiscal year 2022 with provisions of applicable laws, regulations, and contracts we tested.

The following sections discuss in more detail (1) our report on the financial statements, which includes required supplementary information (RSI)²; (2) our report on internal control over financial reporting; (3) our report on compliance with laws, regulations, and contracts; and (4) agency comments.

¹A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

²The RSI consists of "Management's Discussion and Analysis", which is included with the financial statements.

Report on the Financial Statements

Opinion

In accordance with U.S. generally accepted government auditing standards and Office of Management and Budget (OMB) Bulletin No. 22-01, *Audit Requirements for Federal Financial Statements*, we have audited FMC's financial statements. FMC's financial statements comprise the balance sheets as of September 30, 2022, and 2021; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements. In our opinion, FMC's financial statements present fairly, in all material respects, FMC's financial position as of September 30, 2022, and 2021, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of FMC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

FMC management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the RSI in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in FMC's documents containing the audited financial statements and auditor's report, and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about FMC's ability to continue as a going concern for a reasonable period of time.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered to be material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements in order to obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.
- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of FMC's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about FMC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the financial statement audit.

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

FMC's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. Management is responsible for the other information included in FMC's documents. The other information comprises the financial summaries but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control over Financial Reporting

In connection with our audits of FMC's financial statements, we considered FMC's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies or to express an opinion on the effectiveness of FMC's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to FMC's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Internal Control over Financial Reporting

FMC management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of FMC's financial statements as of and for the fiscal year ended September 30, 2022, in accordance with U.S. generally accepted government auditing standards, we considered FMC's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of FMC's internal control over financial reporting. Accordingly, we do not express an opinion on FMC's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, and contracts, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of FMC's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of FMC's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations, and Contracts

In connection with our audits of FMC's financial statements, we tested compliance with selected provisions of applicable laws, regulations, and contracts consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, and Contracts

Our tests for compliance with selected provisions of applicable laws, regulations, and contracts disclosed no instances of noncompliance for fiscal year 2022 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, and contracts applicable to FMC. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, and Contracts

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for Tests of Compliance section below.

Responsibilities of Management for Compliance with Laws, Regulations, and Contracts

FMC management is responsible for complying with laws, regulations, and contracts applicable to FMC.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, and Contracts

Our responsibility is to test compliance with selected provisions of applicable laws, regulations, and contracts applicable to FMC that have a direct effect on the determination of material amounts and disclosures in FMC's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, and contracts applicable to FMC. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, and Contracts

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, and contracts, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, and contracts is not suitable for any other purpose.



North Bethesda, Maryland

November 15, 2022

Federal Maritime Commission Comments on Audit Report



Federal Maritime Commission
Washington, DC 20573

Office of the
Managing Director

November 15, 2022

Donald K. Marshall, CPA
Dembo Jones, P.C.
6116 Executive Boulevard, Suite 500
North Bethesda, MD 20852

Dear Mr. Marshall:

I have reviewed the financial statements audit report for the Federal Maritime Commission for fiscal year 2022. I concur with the audit report's findings that the financial statements fairly present the Commission's financial position during the fiscal year ending September 30, 2022, and that the financial statements are in conformity with U.S. Generally Accepted Accounting Principles; that the FMC has maintained, in all material respects, effective internal control over financial reporting; and that there were no instances of reportable noncompliance with laws and regulations tested by the auditors.

The Commission appreciates Dembo Jones' work over the past fiscal year.

Sincerely,

/s/

Patrick M. Moore
Chief Financial Officer / Director, Enterprise Services

Federal Maritime Commission Financial Statements



**FEDERAL MARITIME COMMISSION
FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021**

TABLE OF CONTENTS

BALANCE SHEET.....	53
STATEMENT OF NET COST.....	54
STATEMENT OF CHANGES IN NET POSITION.....	55
STATEMENT OF BUDGETARY RESOURCES.....	56
STATEMENT OF CUSTODIAL ACTIVITY.....	57
NOTES TO THE FINANCIAL STATEMENTS.....	58-68

BALANCE SHEET
AS OF SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Assets:		
Intragovernmental:		\$
Fund Balance with Treasury (Note 2)	\$ 11,361,461	8,407,506
Total Intragovernmental	11,361,461	8,407,506
Other than Intragovernmental:		
Accounts Receivable, Net (Notes 3)	81,447	85,469
Total Other than Intragovernmental	81,447	85,469
Total Assets	\$ 11,442,908	\$ 8,492,975
Liabilities: (Note 4)		
Intragovernmental:		\$
Accounts Payable	\$ 54,832	56,034
Other Liabilities (Note 5)	369,431	335,890
Other Liabilities (Without Reciprocals) (Note 5)	75,739	67,962
Liability to the General Fund of the U.S. Government for Custodial and Other Non-Entity Assets (Note 4 and 5)	75,328	77,760
<u>Other Current Liabilities - Benefit Contributions Payable (Note 5)</u>	<u>218,364</u>	<u>190,168</u>
Total Intragovernmental	424,263	391,924
Other than Intragovernmental:		
Accounts Payable	291,883	669,126
Federal Employee Benefits Payable	1,716,095	1,719,295
Other Liabilities (Notes 5)	1,044,581	951,569
Total Other than Intragovernmental	3,052,559	3,339,990
Total Liabilities	\$ 3,476,822	\$ 3,731,914
Net Position:		
Unexpended Appropriations - Funds from Other than Dedicated Collections	\$ 9,608,620	6,410,608
Cumulative Results of Operations - Funds from Other than Dedicated Collections	(1,642,534)	(1,649,547)
Total Net Position	7,966,086	4,761,061
Total Liabilities and Net Position	\$ 11,442,908	\$ 8,492,975

The accompanying notes are an integral part of these financial statements

STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Gross Program Costs:		
Operational and Administrative:		
Gross Costs	\$ 29,912,979	\$ 30,319,630
Less: Earned Revenue	(183,471)	(95,100)
Net Program Costs	\$ 29,729,508	\$ 30,224,530
Office of Inspector General:		
Gross Costs	\$ 573,313	\$ 527,021
Less: Earned Revenue	-	(710)
Net Program Costs	\$ 573,313	\$ 526,311
Net Cost of Operations	\$ 30,302,821	\$ 30,750,841

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Unexpended Appropriations:		
Beginning Balance	\$ 6,410,608	\$ 5,858,992
Appropriations Received	32,869,000	30,300,000
Other Adjustments	(484,169)	(233,423)
Appropriations Used	(29,186,819)	(29,514,961)
Net Change in Unexpended Appropriations	3,198,012	551,616
Total Unexpended Appropriations	\$ 9,608,620	\$ 6,410,608
Cumulative Results of Operations:		
Beginning Balance	\$ (1,649,547)	\$ (1,594,214)
Appropriations Used	29,186,819	29,514,961
Transfers In/Out Without Reimbursement	-	26,715
Imputed Financing (Note 8)	1,123,005	1,153,832
Other	10	-
Net Cost of Operations	(30,302,821)	(30,750,841)
Net Change in Cumulative Results of Operations	7,013	(55,333)
Total Cumulative Results of Operations	\$ (1,642,534)	\$ (1,649,547)
Net Position	\$ 7,966,086	\$ 4,761,061

The accompanying notes are an integral part of these financial statements

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Budgetary Resources:		
Unobligated Balance from Prior Year Budget Authority, Net	\$ 2,722,262	\$ 2,522,049
Appropriations	32,869,000	30,300,000
Spending Authority from Offsetting Collections	<u>183,481</u>	<u>122,525</u>
Total Budgetary Resources	\$ 35,774,743	\$ 32,944,574
Status of Budgetary Resources:		
New Obligations and Upward Adjustments (total)	\$ 32,899,803	\$ 30,247,419
Unexpired Unobligated Balance, End of Year	484,454	238,875
Expired Unobligated Balance, End of Year	<u>2,390,486</u>	<u>2,458,280</u>
Unobligated Balance, End of Year (total)	<u>2,874,940</u>	<u>2,697,155</u>
Total Budgetary Resources	\$ 35,774,743	\$ 32,944,574
Outlays, Net and Disbursements, Net:		
Outlays, Net (total)	29,430,876	29,898,167
Distributed Offsetting Receipts	<u>(253,715)</u>	<u>(216,490)</u>
Agency Outlays, Net	\$ 29,177,161	\$ 29,681,677

The accompanying notes are an integral part of these financial statements

**FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)**

	2022	2021
Total Custodial Revenue:		
Sources of Cash Collections:		\$
Miscellaneous	\$ 2,335,235	216,240
Total Cash Collections (Note 11)	2,335,235	216,240
Accrual Adjustments	(2,422)	(1,731)
Total Custodial Revenue	2,332,813	214,509
Disposition of Collections:		
Transferred to Others (by Recipient)	2,335,235	216,240
(Increase)/Decrease in Amounts Yet to be Transferred	(2,422)	(1,731)
Total Disposition of Collections	2,332,813	214,509
Net Custodial Activity	\$ -	\$ -

The accompanying notes are an integral part of these financial statements



FEDERAL MARITIME COMMISSION

NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC or Commission) was established as an independent regulatory agency on August 12, 1961. The FMC is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States. The principal statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, the Foreign Shipping Practices Act of 1988 (FSPA), section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777.

The Commission monitors the activities of ocean common carriers, marine terminal operators (MTOs), agreements among ocean common carriers and/or MTOs, ports and ocean transportation intermediaries (non-vessel-operating common carriers and ocean freight forwarders) operating in the U.S. foreign commerce to ensure they maintain just and reasonable practices; maintains trade monitoring, enforcement and dispute resolution programs designed to assist regulated entities in achieving compliance and to detect and remedy malpractices and violations 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 FMC 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 death or injury occurring to passengers.

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

The FMC reporting entity is comprised of General Funds and General Miscellaneous Receipts. General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues. General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The FMC makes custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year-end. The FMC has rights and ownership of all assets reported in these financial statements. FMC does not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of FMC. The Balance Sheet presents the financial position of the Commission. The Statement of Net Cost presents the Commission's operating results; the Statement of Changes in Net Position displays the changes in the Commission's equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the Commission's resources and follows the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990 and the Government Management Reform Act of 1994. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards issued by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, as amended, and FMC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control FMC's use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

FBWT is an asset of a reporting entity and a liability of the General Fund. It is the aggregate amount of the FMC's funds with Treasury in expenditure, receipt, revolving, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The FMC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. When the reporting entity seeks to use FBWT or investments in Government securities to liquidate budgetary obligations, Treasury will finance the disbursements in the same way it finances all other disbursements, which is to borrow from the public if there is a budget deficit (and to use current receipts if there is a budget surplus). Funds are disbursed for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to FMC by other Federal agencies and the general public. Amounts due from Federal agencies are considered fully collectible. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines

that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. FMC's capitalization threshold is \$25,000 for individual purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software. The useful life classifications for capitalized assets are as follows:

<u>Description</u>	<u>Useful Life (years)</u>
Leasehold Improvements	5
Office Furniture	5
Computer Equipment	5
Office Equipment	5
Software	5

G. Advances and Prepaid Charges

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

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the FMC as a result of transactions or events that have already occurred.

The FMC reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities with the Public represent funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued

payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, actuarial Federal Employees' Compensation Act (FECA), and the amounts due to Treasury for collection and accounts receivable of civil penalties and FOIA request fees.

I. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Non-vested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (OPM) upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees.

J. Accrued and Actuarial Workers' Compensation

The FECA administered by the U.S. Department of Labor (DOL) addresses all claims brought by the FMC employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the FMC terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

K. Retirement Plans

FMC employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of FMC matching contribution, equal to 7% of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to 1% of pay and FMC matches any employee contribution up to an additional 4% percent of pay. For FERS participants, FMC also contributes the employer's matching share of Social Security.

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

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

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

L. Other Post-Employment Benefits

FMC employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGSIP) may continue to participate in these programs after their retirement. The OPM has provided the FMC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The FMC recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is

financed by OPM and offset by the FMC through the recognition of an imputed financing source.

M. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. The FMC discloses contingent liabilities in the notes to the

financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an “Other Financing Source” when made.

O. Reclassification

Certain fiscal year 2021 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

P. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2022 and 2021, were as follows:

	2022	2021
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	\$ 484,453	\$ 238,875
Unavailable	2,390,486	2,458,280
<u>Obligated Balance Not Yet Disbursed</u>	<u>8,486,522</u>	<u>5,710,351</u>
Total	\$ 11,361,461	\$ 8,407,506

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

The available unobligated fund balances represent the current period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

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

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the fund balance on hand (see also Note 9).

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2022 and 2021, were as follows:

	2022	2021
Other than Intergovernmental		
Miscellaneous Accounts Receivable	\$ 80,198	\$ 84,664
Interest Receivable	315	195
Penalties and Fines Receivable	934	610
Total Accounts Receivable	\$ 81,447	\$ 85,469

The accounts receivable is primarily made up of services provided to the public. Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2022 and 2021.

NOTE 4. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2022 and 2021, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2022	2021
Unfunded Leave	\$ 1,675,369	\$ 1,683,770
Total Liabilities Not Covered by Budgetary Resources	\$ 1,675,369	\$ 1,683,770
Total Liabilities Covered by Budgetary Resources	1,726,125	1,970,384
Total Liabilities Not Requiring Budgetary Resources	75,328	77,760
Total Liabilities	\$ 3,476,822	\$ 3,731,914

FMC records an actuarial liability for future workers compensation claims based on the liability to benefits paid (LBP) ratio provided by DOL and multiplied by the average of benefits paid over three years.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

NOTE 5. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2022 were as follows:

	Current	Total
Intragovernmental		\$
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 75,739	75,739
Custodial Liability (to the General Fund)	75,278	75,278
Liability for Non-Entity Assets Not Reported on the Statement of Custodial Activity (other than the General Fund)	50	50
Employer Contributions and Payroll Taxes Payable	218,364	218,364
Total Intragovernmental Other Liabilities	\$ 369,431	\$ 369,431
Other than Intragovernmental		
Accrued Funded Payroll and Leave	\$ 1,044,581	\$ 1,044,581
Total Other than Intragovernmental Other Liabilities	\$ 1,044,581	\$ 1,044,581
Total Other Liabilities	\$ 1,414,012	\$ 1,414,012

Other liabilities account balances as of September 30, 2021 were as follows:

	Current	Total
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 67,962	\$ 67,962
Custodial Liability (to the General Fund)	77,700	77,700
Liability for Non-Entity Assets Not Reported on the Statement of Custodial Activity (to the General Fund)	60	60
Employer Contributions and Payroll Taxes Payable	190,118	190,118
Other Post Employment Benefits Due and Payable	50	50
Total Intragovernmental Other Liabilities	\$ 335,890	\$ 335,890
Other than Intragovernmental		
Accrued Funded Payroll and Leave	\$ 951,569	\$ 951,569
Total Other than Intragovernmental Other Liabilities	\$ 951,569	\$ 951,569
Total Other Liabilities	\$ 1,287,459	\$ 1,287,459

NOTE 6. OPERATING LEASES

FMC occupies office space in four locations, of which all four of the lease agreements are required to be accounted for as operating leases. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The total operating lease expense for the periods ended September 30, 2022 and 2021, respectively were \$3,200,121 and \$3,646,836, respectively. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Iselin, NJ	10 years	3/15/2024
Tacoma, WA	10 years	10/31/2031
Houston, TX	15 years	10/1/2033
Washington, DC	15 years	10/31/2037

The operating lease amount does not include estimated payments for leases with annual renewal options. The schedule of future payments for the term of the leases is as follows:

Fiscal Year	Totals
2023	\$ 346,475
2024	\$ 1,936,126
2025	\$ 3,255,930
2026	\$ 3,291,205
2027	\$ 3,411,747
Thereafter	\$ 37,079,935
Total Future Minimum Payments	\$ 49,321,418

NOTE 7. COMMITMENTS AND CONTINGENCIES

FMC records commitments and contingent liabilities for legal cases in which payment has been deemed probable, and for which the amount of potential liability has been estimated, including certain judgments that have been issued against the agency. The FMC has no knowledge of any lawsuits/investigations in which payment is deemed probable.

NOTE 8. INTER-ENTITY COSTS

FMC recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost and are offset by imputed revenue. Such imputed costs and revenues relate to employee benefits and claims to be settled by the Treasury Judgement Fund. FMC recognizes as inter-entity costs the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM.

For the periods ended September 30, 2022 and 2021, respectively, inter-entity costs were as follows:

	2022	2021
Office of Personnel Management	\$ 1,123,005	\$ 1,153,832
Total Imputed Financing Sources	\$ 1,123,005	\$ 1,153,832

NOTE 9. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2022, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 1,503,986	\$ 5,256,410	\$ 6,760,396
Total Undelivered Orders	\$ 1,503,986	\$ 5,256,410	\$ 6,760,396

As of September 30, 2021, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 998,579	\$ 2,741,390	\$ 3,739,969
Total Undelivered Orders	\$ 998,579	\$ 2,741,390	\$ 3,739,969

NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President’s Budget that will include fiscal year 2022 actual budgetary execution information has not yet been published. The President’s Budget is scheduled for publication in February 2023 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb/>. The 2023 Budget of the United States Government, with the "Actual" column completed for 2021, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments (Total)	Net Outlays
Combined Statement of Budgetary Resources	\$ 33	\$ 30	\$ 30
Unobligated Balance Not Available	(3)	-	-
Budget of the U.S. Government	\$ 30	\$ 30	\$ 30

NOTE 11. CUSTODIAL ACTIVITY

FMC is an administrative agency, collecting for another entity or the General Fund of the Treasury. As a collecting entity, FMC measures and reports cash collections and refunds. These collections are reported as custodial revenue on the Statement of Custodial Activity. The type of cash collected is for fines, penalties and administrative fees. A small portion is for interest on the past due fines. Another component of the custodial revenue is general proprietary receipts (User Fees) for the application of licenses issued to qualified Ocean Transportation Intermediaries (OTT’s) in the U.S., FMC reviews petitions, status changes and special permission fees. FMC believes that all fines, penalties, administrative fees and user fees will be collected in full. There are no material uncollectible accounts as of September 30, 2022 and 2021.

Custodial collections are reported on the Statement of Custodial Activity. The miscellaneous receipts are broken out in the general receipt funds as follows:

	2022	2021
Fines, Penalties, and Forfeitures	\$ 2,082,000	\$ -
General Fund Proprietary Receipts (User fees)	253,715	216,490
Refunds of Proprietary Receipts (User fees)	(480)	(250)
Total Custodial Collections	\$ 2,335,235	\$ 216,240

NOTE 12. RECONCILIATION OF NET COST TO NET OUTLAYS

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

Reconciliation of Net Cost Outlays as of September 30, 2022:

	Intragovernmen	Other than Intragovernmen	Total
Net Operating Cost (SNC)	\$ 10,704,946	\$ 19,597,875	\$ 30,302,821
Components of Net Cost Not Part of the Budgetary Outlays			
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	(1,600)	(1,600)
(Increase)/Decrease in Liabilities:			
Accounts Payable	1,202	377,243	378,445
Federal Employee [and Veteran] Benefits Payable	-	3,200	3,200
Other Liabilities	(35,973)	(93,012)	(128,985)
Financing Sources:			
Imputed Cost	(1,123,005)	-	(1,123,005)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (1,157,776)	\$ 285,831	\$ (871,945)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	-	(253,715)
Custodial/Non-Exchange Revenue	2,332,813	(2,332,813)	-
Total Other Reconciling Items	\$ 2,332,813	\$ (2,332,813)	\$ (253,715)
Total Net Outlays (Calculated Total)	\$ 11,879,983	\$ 17,550,893	\$ 29,177,161
Budgetary Agency Outlays, Net (SBR 4210)			\$ 29,177,161
Budgetary Agency Outlays, Net			\$ 29,177,161

Reconciliation of Net Cost Outlays as of September 30, 2021:

	Intragovernmen	Other than Intragovernmen	Total
Net Operating Cost (SNC)	\$ 10,932,169	\$ 19,818,672	\$ 30,750,841
Components of Net Cost Not Part of the Budgetary Outlays			
Property, Plant, and Equipment Depreciation Expense			
	-	(5,612)	(5,612)
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	1,590	1,590
Other Assets	(14,584)	-	(14,584)
(Increase)/Decrease in Liabilities:			
Accounts Payable	21,601	484,039	505,640
Federal Employee [and Veteran] Benefits Payable	-	(83,501)	(83,501)
Other Liabilities	(39,265)	(36,395)	(75,660)
Financing Sources:			
Imputed Cost	(1,153,832)	-	(1,153,832)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (1,186,080)	\$ 360,121	\$ (825,959)
Components of the Budget Outlays That Are Not Part of Net Operating Cost			
Financing Sources:			
Transfers Out (In) Without Reimbursements	(26,715)	-	(26,715)
Total Components of the Budget Outlays That Are Not Part of Net Operating Cost	\$ (26,715)	\$ -	\$ (26,715)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	-	(216,490)
Custodial/Non-Exchange Revenue	214,509	(214,509)	-
Total Other Reconciling Items	\$ 214,509	\$ (214,509)	\$ (216,490)
Total Net Outlays (Calculated Total)	\$ 9,933,883	\$ 19,964,284	\$ 29,681,677
Budgetary Agency Outlays, Net (SBR 4210)			\$ 29,681,677
Budgetary Agency Outlays, Net			\$ 29,681,677



Other Required Information

Inspector General's Statement on Management and Performance Challenges



FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 14, 2022

Office of Inspector General

TO: Chairman Maffei
Commissioner Dye
Commissioner Sola
Commissioner Bentzel
Commissioner Vekich

FROM: Inspector General

SUBJECT: Inspector General's Statement on the Federal Maritime Commission's Management and Performance Challenges

The Reports Consolidation Act of 2000 (Public Law 106-531) requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies, and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for fiscal year (FY) 2022.

The Office of Inspector General (OIG) has identified the ***implementation of the Ocean Shipping Reform Act of 2022 (OSRA)*** and ***information technology (IT) security*** to be management and performance challenges. The OIG's assessment for these two issues is based on information derived from a combination of sources, including OIG evaluation work; Commission reports; Federal government reports; and a general knowledge of the Commission's programs.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the FMC PAR that is due by November 15, 2022.

/s/

Jon Hatfield

Attachment

Cc: Lucille L. Marvin, Managing Director
Patrick M. Moore, Director, Enterprise Services/Chief Financial Officer
Katia Kroutil, Acting General Counsel
Kathie L. Keys, Special Assistant to the Managing Director

The Management Challenge **Implementation of the Ocean Shipping Reform Act of 2022 (OSRA)**

On June 16, 2022, President Joseph R. Biden Jr. signed into law the Ocean Shipping Reform Act of 2022 (OSRA), enacted as Public Law 116-146. The Federal Maritime Commission (FMC) is charged with ensuring a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The bipartisan OSRA intends to level the playing field for American exporters and importers by providing the FMC the tools it needs for effective oversight of international ocean carriers. These oversight and enforcement tools will help the FMC eliminate unfair charges, prevent unreasonable denial of American exports, and crack down on other unfair practices harming American businesses and consumers.

The Inspector General (IG) has identified the implementation of OSRA as one of the management and performance challenges facing the FMC because of the importance and magnitude of the legislation's requirements. While the IG believes the very capable and dedicated Commission and staff will successfully fulfill the requirements of the new law, the number of new requirements, timeframes, and resources required are substantial, and are in addition to the agency's existing mission requirements. The FMC is a relatively small Federal agency, at the end of FY 2022 the agency had 122 staff on board. This number includes two long-serving former FMC senior executives who are reemployed annuitants specifically to assist the FMC with implementation of OSRA.

The most important requirement for successful implementation and execution of OSRA is to ensure the agency has the necessary staff resources. Last year's IG report identified **high turnover in senior positions** as one of the management challenges facing the agency. Specifically, the IG highlighted for the years 2019, 2020, and 2021, ten of the fifteen FMC offices/bureaus experienced turnover in the senior position. The high turnover in senior positions is particularly challenging for a small organization like the FMC because FMC bureaus and offices lack multiple management layers to draw upon when senior leadership turnover occurs. Although the FMC was relatively quick to fill these positions and with very qualified and competent individuals, the turnover of many talented and very experienced senior leaders in a relatively short period of time has resulted in the loss of institutional knowledge and expertise that required many years to develop.

Agency Progress and the Challenge Ahead

At a September 21, 2022, Commission meeting, agency staff briefed the Commission and reported that substantial progress had been made in implementing many of the requirements established by OSRA. Specifically, progress included a Notice of Proposed Rulemaking (NPRM) on unreasonable refusal to deal in regard to vessel space, a scheduled NPRM on demurrage and detention billing requirements, progress towards establishment of a permanent process for handling Charge Complaints, and two requests for public comment had been issued.

In the FMC's FY 2023 budget justification, dated March 2022 (pre-OSRA), the FMC requested \$34,683,500 to accomplish its statutory responsibilities and to meet the needs of stakeholders and the public. This level of funding represents a \$1.8M (5.3 percent) increase from the FY 2022 enacted budget. The budget increase would support the Commission's efforts to address the impact on the ocean shipping industry of unprecedented surges in cargo volumes and congestion at our Nation's ports. According to the budget justification, the requested funding level would enable the Commission to add the appropriate resources to create a lasting capability to focus on supply chain issues. Specifically, the FY 2023 budget justification (request) states the agency would continue its hiring efforts to reach 164 full-time positions and achieve the 150 full-time equivalent level supported by the budget justification. The agency is also working on the FY 2024 budget justification with specific plans to request additional hiring to support the implementation and execution of OSRA.

The Management Challenge **Information Technology (IT) Security**

Government-wide, the Government Accountability Office (GAO) has designated information security as a high-risk area since 1997. GAO expanded this high-risk area in 2003 to include protection of critical cyber infrastructure and, in 2015, to include protecting the privacy of personally identifiable information (PII). GAO's high-risk program focuses attention on government operations that GAO identifies as high-risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.

Over the last several years and continuing in FY 2022, the OIG's audit work has found the FMC to be focused on maintaining an effective IT security program. The FMC is highly dependent on IT systems and electronic data to carry out agency operations and to process, maintain, and report essential information. Therefore, the security of these systems and data is vital to ensure the confidentiality, integrity, and availability of FMC systems and information. Risks to the FMC's IT systems can include insider threats from witting or unwitting employees, escalating and emerging threats from around the globe, and new and more destructive attacks.

According to GAO, after two high-profile cyber incidents that affected Federal IT systems—the SolarWinds and Microsoft Exchange Server hacks—Congress and Federal agencies are moving with renewed urgency to take actions that would improve the security of U.S. government IT systems from cyberattacks. In 2022, the FMC volunteered to be an early adopter of the Vulnerability Disclosure Policy (VDP) Platform, a centrally managed system by the Cybersecurity & Infrastructure Security Agency (CISA).

According to CISA, the objective of the VDP Platform is to promote good faith security research to achieve improved security and coordinated disclosure. The VDP Platform is also intended to improve vulnerability detection on Federal networks by enabling participating agencies

to benefit from timely reporting that, in turn, facilitates prompt resolution. The FMC's goal for early adoption of the VDP Platform was to identify and remediate any vulnerabilities that may be found as quickly as possible. In fact, the FMC's early adoption of the VDP Platform resulted in the identification of a vulnerability. Unfortunately, according to an FMC report filed with the Inspector General, the CISA/contractor failed to notify the FMC of the vulnerability, and the CISA/contractor allegedly made an unauthorized change to an FMC database, both are apparent violations of the memorandum of understanding between the FMC and CISA. Although the CISA/contractor apparently did not follow aspects of their own 'rules of engagement,' ultimately the FMC was able to assess, remediate, and identify lessons learned to further strengthen the FMC's network.

Agency Progress and the Challenge Ahead

The Federal Information Security Modernization Act (FISMA) establishes information security program and evaluation requirements for Federal agencies in the executive branch, including the FMC. Each year, the OIG oversees an independent FISMA audit of the information security program and practices of the agency. The results of the audit are reported annually to the Office of Management and Budget (OMB); selected congressional committees; the Comptroller General; and the FMC's Commission and management.

The results of the OIG's *Fiscal Year 2022 Audit of the FMC's Compliance with the Federal Information Security Modernization Act (FISMA)* indicate the FMC has an effective information security program. The OIG's audit concluded both prior year audit recommendations had been addressed by the Office of Information Technology (OIT). Specifically, the OIT corrected an issue related to the computer network password policy settings. OIT also developed, reviewed, and updated information security policies and procedures to adhere to agency and government-wide requirements. The 2022 audit included two new audit recommendations related to the development of policies and procedures to incorporate new government-wide information security requirements. FMC management agreed with both 2022 audit recommendations.

Comments on Inspector General's Statement

The Commission values the Inspector General's assessment of the serious management and performance challenges facing the Commission and the Federal government in general. The Commission intends to continue its efforts to add appropriate resources to create a lasting capability to focus on supply chain issues and to meet the challenge of implementing the Ocean Shipping Reform Act of 2022. The OIG's annual FISMA audits and recommendations made for strengthening IT security controls continue to play a critical role in keeping the Commission up-to-date on significant risks and challenges and are invaluable in aiding to protect its resources.

Financial Statement Audit Summary

Table 1 is a summary of the results of the independent audit of the FMC’s financial statements by the agency’s auditors in connection with the FY 2022 audit.

Table 1. Summary of Financial Statement Audit					
Audit Opinion	Unmodified				
Restatement	No				
Material Weaknesses	Beginning balance	New	Resolved	Consolidated	Ending Balance
None	n/a	n/a	n/a	n/a	n/a
Total Material Weaknesses	None	None	n/a	n/a	None

Management Assurances Summary

Table 2 is a summary of management assurances related to the effectiveness of internal control over the FMC’s financial reporting and operations and its conformance with financial management system requirements under Sections 2 and 4, respectively, of the FMFIA. This table also summarizes compliance with the FFMIA, which is not applicable to the Commission.

Table 2. Summary of Management Assurances						
Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
[name of weakness]	None	n/a	n/a	n/a	n/a	None
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Compliance with Federal Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
[name of noncompliance]	None	n/a	n/a	n/a	n/a	None
Total noncompliance	None	n/a	n/a	n/a	n/a	None
Compliance with Section 803(a) of the Federal Financial Management Improvement Act (FFMIA)						
			Agency		Auditor	
1.	Federal Financial Management System Requirements		FFMIA does not apply to the FMC		n/a	
2.	Applicable Federal Accounting Standards		FFMIA does not apply to the FMC		n/a	
3.	USSGL at Transaction Level		FFMIA does not apply to the FMC		n/a	

Improper Payments Information Act

The FMC reports its compliance with the Payment Integrity Information Act of 2019 through OMB's annual data call on payment integrity. The FMC's information is provided at www.paymentaccuracy.gov.

Fraud Reduction Report

The FMC has a low appetite for fraud. The FMC complies with the *Fraud Risk and Data Analytics Act of 2015* and follows the Standards for Internal Control in the Government through its enterprise risk management program and financial accounting practices. The FMC's Risk Committee tasked with managing risk enterprise-wide considers fraud risks on a regular basis.

Financial stewardship is an important part of the FMC's risk management strategy. Internal controls and financial and accounting data are subject to multiple levels of monthly or annual review performed internally by the FMC and externally by the BFS. The most recent OIG risk assessment of the purchase card program, completed in 2022, considered several factors, including: effectiveness of internal controls; training requirements; policies and procedures; any prior problems with the program; and previous audits and reviews. The OIG concluded the risk of illegal, improper, or erroneous use in the FMC's purchase card program is "low," and as a result, an OIG audit or review of the FMC's purchase card program is not planned in 2022.

The Commission has financial and administrative controls in place, including an internal controls policy which provides management and internal control processes for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse and mismanagement. In 2020, the FMC's OIG, with the assistance of independent financial auditors, completed a review of the Commission's administrative control of funds. The *Management Letter on Administrative Control of Funds, A-20-02a*, determined that the Commission has an internal control system in place for its funds control and recommended additional opportunities to further strengthen the agency's controls. The Commission's administrative control of funds policy is currently in final review by the Office of Management and Budget.

In addition, the Commission's acquisitions policy protects the integrity of the contracting process and includes ethical requirements and standards of conduct in accordance with the *Procurement Integrity Act* and Federal Acquisition Regulations.

The FMC does not oversee or have responsibility for any credit, grant, or loan programs. No new programs were initiated in FY 2022, and no current programs are at high risk for fraud, abuse, or exposure to waste.

Civil Monetary Penalty Adjustment for Inflation

The *Federal Civil Penalties Inflation Adjustment Act of 1990*, Pub. L. 104-410, as amended by the *Debt Collection Improvement Act of 1996*, Pub. L. 104-134, and the *Federal Civil Penalties*

Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, requires agencies to make regular and consistent inflationary adjustments of civil monetary penalties to maintain their deterrent effect.

The following table shows the civil penalties that the FMC may impose, authority for imposing the penalty, dates of inflation adjustments, and current penalty levels. The Federal Register notice (86 FR 2560) may be viewed at: [Federal Register :: Inflation Adjustment of Civil Monetary Penalties](#)

Penalty	Statutory Authority	Date of Previous Adjustment	Date of Current Adjustment	Maximum Penalty
Adverse impact on U.S. carriers by foreign shipping practices	46 U.S.C. 42304	January 15, 2021	January 15, 2022	\$2,301,065
Knowing and Willful violation / Shipping Act of 1984, or Commission regulation or order	46 U.S.C. 41107(a)	January 15, 2021	January 15, 2022	\$65,666
Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful	46 U.S.C. 41107(b)	January 15, 2021	January 15, 2022	\$13,132
Operating in foreign commerce after tariff suspension	46 U.S.C. 41108(b)	January 15, 2021	January 15, 2022	\$131,334
Failure to provide required reports, etc. / Merchant Marine Act of 1920	46 U.S.C. 42104	January 15, 2021	January 15, 2022	\$10,360
Adverse shipping conditions / Merchant Marine Act of 1920	46 U.S.C. 42106	January 15, 2021	January 15, 2022	\$2,071,819
Operating after tariff or service contract suspension / Merchant Marine Act of 1920	46 U.S.C. 42108	January 15, 2021	January 15, 2022	\$103,591
Failure to establish financial responsibility for non-performance of transportation*	46 U.S.C. 44102	January 15, 2021	January 15, 2022	\$26,167 \$873
Failure to establish financial responsibility for death or injury*	46 U.S.C. 44103	January 15, 2021	January 15, 2022	\$26,167 \$873
Program Fraud Civil Remedies Act / makes false claim	31 U.S.C. 3802(a)(1)	January 15, 2021	January 15, 2022	\$12,537
Program Fraud Civil Remedies Act / giving false statement	31 U.S.C. 3802(a)(2)	January 15, 2021	January 15, 2022	\$12,537

*These amounts are based on the penalties established in § 44104 for violations of §§ 44102 and 44103: \$5,000, plus \$200 for each passage sold. These penalties were established in 1966 and, applying the statutory inflation adjustment formula, amount to \$26,167, plus \$873 for each passage sold, in current dollars.

Biennial Review of User Fees

Agencies are required by the *Chief Financial Officers Act of 1990* to conduct biennial reviews of fees and other charges that they impose and to revise these fees and charges to cover program and administrative costs incurred, as necessary. The Commission estimates that its update to user fees, in a direct final rule, will publish by January 27, 2023. User fee rates will next be examined in CY 2024.

