



TABLE OF CONTENTS

	<u>Page</u>
Summary and Highlight Statement	1
Justification Materials:	
Organizational Chart	10
Appropriation History (Graph).....	11
Full-Time Equivalent History (Graph).....	12
Summary of Requirements	13
Program by Activities.....	14
Summary of Employment	15
Summary of Salaries and Benefits Expenses.....	16
Summary of Travel and Administrative Expenses.....	17
Budget Justifications:	
Formal Proceedings Program.....	18
Equal Employment Opportunity Program	35
Inspector General Program	37
Operations Program.....	39
Administration Program.....	54
Alphabetical Listing of Abbreviations (Appendix A).....	62
Attachment: 2008 Final Annual Performance Plan	

Summary and Highlight Statement

Budget Estimates, 2008

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

The Commission's activities during the past fiscal year include the following:

- ◆ Issued a Notice of Inquiry in Docket No. 05-06, *Non-Vessel-Operating Common Carrier Service Arrangements*. Effective January 19, 2005, an earlier Final Rule in Docket No. 04-12, *Non-Vessel-Operating Common Carrier Service Arrangements*, permitted NVOCCs to offer NVOCC Service Arrangements (“NSAs”) with their shipper customers. After an opinion by the U.S. Court of Appeals for the Fourth Circuit clarified that NVOCCs are not entitled to antitrust immunity under the Shipping Act, the Commission issued a final rule extending the above exemption to allow NVOCCs to offer NSAs to other NVOCCs as well as shippers’ associations with NVOCC members. This Final Rule became effective on October 28, 2005. The Notice of Inquiry seeks comment on expansion of the exemption to enable two or more unaffiliated NVOCCs to jointly offer NSAs. Responses to the inquiry currently are under review by the Commission.

- ◆ Obtained an injunction against international household goods movers All-In-One Shipping, Inc., Around the World Shipping, Inc., Boston Logistics Corp., Global Direct Shipping, Daniel Cuadrado, Elizabeth F. Hudson, and Joshua Morales in the U.S. District Court for the Southern District of Florida. The complaint and motion are based on Docket No. 06-01, *Worldwide Relocations, Inc., et al.* More than 250 consumer complaints were received alleging, among other things, failure to deliver cargo and refusing to return pre-paid ocean freight; lost cargo; charging the shipper for marine insurance which was never obtained; misleading the shipper as to the whereabouts of cargo; charging the shipper an inflated rate and withholding cargo until the rate was paid; and failure to pay the common carrier.

- ◆ Issued an order affirming the initial decision in part and assessing penalties for violations of section 10(b)(4) of the Shipping Act in Docket No. 98-06, *Sea-Land Service Inc. - Possible Violations of Sections 10(b)(1), 10(b)(4) and 19(d) of The Shipping Act of 1984*. On February 8, 2006, the Commission affirmed the Administrative Law Judge’s (“ALJ’s”) rulings that Sea-Land failed to collect the rates contained in its applicable tariff, and failed to collect the applicable rate through an unjust device or means. The Commission vacated the \$4,082,500 penalty assessed by the ALJ and imposed instead a penalty of \$820,000 for the violations.

- ◆ Issued an Order vacating the ALJ’s dismissal and remanding the proceeding for further adjudication in Docket No. 02-04, *Anchor Shipping Co. v. Alianca Navegacao E Logistica Ltda.* By an order dismissing Anchor’s complaint against Alianca, the ALJ determined that it would be unfair and unjust to allow Anchor to litigate a claim that had been previously settled in arbitration. Anchor appealed, and the Commission vacated the ALJ’s dismissal order and remanded the proceeding to an ALJ for further adjudication. In determining that the ALJ improperly dismissed Anchor’s complaint, the Commission held that precluding Anchor from filing its complaint because it had previously participated in private arbitration of contract issues would be inconsistent with the agency’s statutory mandate.

- ◆ Continued to monitor potentially restrictive shipping practices of the Government of Japan, including the receipt and review of reports on prevailing conditions filed by Japanese and U.S. carriers as part of the Commission’s ongoing proceeding in Docket No. 96-20, *Port Restrictions and Requirements in the United States/Japan Trade*.

- ◆ Continued to host a series of briefings by shipping industry representatives to develop a greater awareness and understanding of the current issues and concerns affecting the U.S. international liner shipping industry.
- ◆ Continued informational outreach conducted by the agency's Area Representatives at locations around the country. Activities included manning a booth at the National Customs Brokers and Freight Forwarders Association annual convention in Hollywood, Florida to distribute informational materials and meet with attendees; giving an interview to a local television station in the New York area regarding shipping and unlicensed operators, an interview which was also placed on the station's website; addressing the Dominican American Chamber of Commerce to discuss OTI licensing requirements as they relate to consumer protection issues; and visiting port facilities such as in the Baltimore area to meet with port authorities, carrier representatives and others to discuss relevant issues and to view operations firsthand.
- ◆ Continued a series of functions/operations briefings to educate agency staff on the full range of activities and inter-relationships of the units of the agency.
- ◆ Contracted with an independent auditing firm to audit the Commission's financial statements for fiscal year 2006. The Commission received an unqualified opinion for its fiscal year 2006 financial statement.
- ◆ Reviewed and analyzed the justification for a establishment of the Traffic Mitigation Fee ("TMF") established by PierPASS, an organization created pursuant to the West Coast MTO Agreement as a means of funding extended gate hours at marine terminals at the ports of Los Angeles and Long Beach. The TMF provides an incentive for shippers to move cargo traffic to off-peak evening hours as a means of reducing traffic congestion and air pollution levels attributable to truck idling time at port facilities.
- ◆ Commenced an On-Site Monitoring Program that evaluates passenger vessel operator ("PVO") financial responsibility under section 3, P.L. 89-777. The program is responsive to Congressional concern for the practices of PVOs generally with respect to protecting passengers' advance deposits for transportation.

In addition to the above, the Commission, as part of its ongoing activities:

- ◆ Completed its Program Performance Report for fiscal year 2005, finalized its Annual Performance Plan for fiscal year 2007, and developed its Initial Annual Performance Plan for fiscal year 2008, in accordance with the Government Performance and Results Act of 1993.
- ◆ Participated in interagency groups and international maritime discussions, including the Committee on the Marine Transportation System, a cabinet-level inter-agency organization whose goal is to ensure the development and implementation of national MTS policies consistent with national needs.

- ◆ Continued an exchange of enforcement information with the U.S. Bureau of Customs and Border Protection (“CBP”) in accordance with a Memorandum of Understanding. Cooperation with Customs has expanded into several joint field operations to investigate entities suspected of violating both agencies’ statutes or regulations. Such cooperation has also included local police and the Bureau of U.S. Citizenship and Immigration Services (formerly INS).
- ◆ Continued to meet with officials of various trading partners, including the European Commission, to discuss issues of mutual interest and to coordinate activities where possible.
- ◆ Continued to accumulate information on the laws and practices of foreign governments and monitor activities in the U.S. foreign trades to address appropriately any condition which appears unfavorable to U.S. shipping interests.
- ◆ Facilitated access to information involved in formal Commission proceedings by electronically serving various issuances and making public filings available on our homepage, and improved responsiveness to requests for public information.
- ◆ Commented on 120 bills, proposals and Congressional inquiries, and consulted with Congressional staff on the continuing efforts to revise, codify and enact certain maritime laws as part of Title 46, U.S. Code, Shipping.
- ◆ Continued to work with the industry to obtain statutory compliance in all major trades and with all segments of the transportation industry, i.e., carriers, carrier agreements, MTOs, PVOs, and OTIs.
- ◆ Continued a controlled carrier program designed to identify controlled carriers effectively and quickly, and to ensure appropriate monitoring of controlled carrier activities. This included reviewing documents and information relating to the controlled carrier status of a number of carriers. As part of the program, produced a detailed study of service contract rate levels for major commodities moving between key port-pairs in the U.S. Transpacific trade.
- ◆ Responded to 3,000 shipment transaction inquiries and provided ombuds dispute resolution services for 632 complaints.
- ◆ Provided consumer assistance consistent with the policies of Executive Order 12,160, “Providing for Enhancement and Coordination of Federal Consumer Programs,” while also assisting regulated entities in achieving compliance with statutory requirements.
- ◆ Worked with Commission staff and agency stakeholders to make modifications to the new website and to increase the amount of electronically available information.
- ◆ Issued 15 orders and notices in docketed proceedings.
- ◆ Reviewed, evaluated and processed 265 carrier agreement filings and 27 marine terminal agreement filings.

- ◆ Received 886 sets of minutes and 164 monitoring reports containing market share, cargo, revenue, and service data for agreement parties. Additionally, 16 applications for waiver requests were processed.
- ◆ Received and processed approximately 46,682 new service contracts and 252,566 contract amendments. Received and processed 557 original NSAs and 448 subsequent amendments that were filed by NVOCCs, and completed an initial audit of filed NSAs and a related research project on the marketing and use of NSAs. A new upgraded Service Contract Filing System (“SERVCON”) system was implemented to streamline the filing process for all filers of service contracts and NSAs, and other major performance enhancements were made to the system.
- ◆ Posted 3,942 active/current tariff location addresses for carriers, conferences, and MTOs on the agency’s website. A total of 1,902 inactive/cancelled tariff location addresses were posted as well.
- ◆ Issued 343 new and 169 amended OTI licenses, and revoked 278 licenses; bonds for 63 non-U.S.-based unlicensed NVOCCs were cancelled.
- ◆ Received 50 applications for passenger vessel certificates (casualty and performance). Currently, 197 vessels and 47 operators have evidence of financial responsibility coverage on file with the Commission in excess of \$339 million for nonperformance and over \$666 million for casualty.
- ▲ Collected \$1,042,000 in fines and penalties. The Commission also collected \$553,530 from user fees.
- ◆ Commenced an investigation into the operations of unlicensed, unbonded OTIs that provide transportation of household goods and personal effects, including enforcement of the prohibition on vessel operating common carriers (“VOCCs”) and licensed NVOCCs providing service to such unlawful operators.
- ◆ Converted the agency’s database of historical Port Import Export Reporting Service (“PIERS”) data into a Structured Query Language (“SQL”) server database, and implemented an intuitive point-and-click web-based PIERS data analysis system. Over 30 million records were converted and an additional 450,000 records are newly appended each month.
- ◆ Continued to monitor accessibility to tariffs published in carriers’ automated tariff systems (“CATS”). Completed an audit of 98 unique CATS.
- ◆ Continued information technology efforts to ensure compliance with statutory and regulatory requirements, and to ensure effective coordination of the Commission’s automation program, including conducting a requirements analysis and inventory to meet the government’s new Internet upgrade initiative.

- ◆ Reviewed and updated internal Commission orders, as necessary, to ensure that they reflect current policies and procedures, to revoke orders which no longer are necessary, and to draft new orders as appropriate.
- ◆ Refined the Commission's Continuity of Operations Plan dealing with recovery of operations in the event of displacement or disaster.
- ◆ Maintained an agreement database and library containing up-to-date information pertaining to effective agreements. Began adding copies of marine terminal agreements to the agency's electronic agreement library. Public access to the marine terminal agreements library will be established through links on the agency website.
- ◆ Prepared budget justifications and estimates for the fiscal year 2007 Congressional budget and fiscal year 2008 Office of Management and Budget ("OMB") budget, and produced the agency's fiscal year 2006 Management's Discussion and Analysis, and its Performance and Accountability Report.
- ◆ Upgraded the agency's network security infrastructure.
- ◆ Analyzed the Commission's Freedom of Information Act program and developed and submitted a plan for improvements pursuant to Executive Order 13392.
- ◆ Implemented employee development programs and activities to address executive succession, such as a Senior Executive Service ("SES") Candidate Development Program and an Emerging Leaders Program.
- ◆ Developed renovation plans for the Commission's headquarters space in order to more appropriately accommodate and add efficiency to current agency programs.
- ◆ Continued development of a project to modernize the Regulated Person Index. The agency posts on its website a list of OTIs which are licensed, bonded and have provided their tariff location, if required, so that carriers and others can ascertain whether an OTI has met FMC requirements. The list is also of use to the CBP, and other Federal agencies, in conjunction with homeland security initiatives.
- ▲ Selected a vendor to address the Commission's current and future scanning needs. New hardware and software are being put to use both to update the current scanning process and expand scanning services to other agency components. The agency has also begun training initiatives to ensure maximum use of the new scanning technology.
- ▲ Reviewed all agency and government-wide forms used by the agency to identify and eliminate unnecessary requests for employee-sensitive (i.e., Social Security numbers) data on the forms.
- ◆ Continued implementation of an Equal Employment Opportunity ("EEO") early intervention program to resolve potential problems.

- ◆ Continued to conduct, through the Office of the Inspector General, various audits and operational reviews.

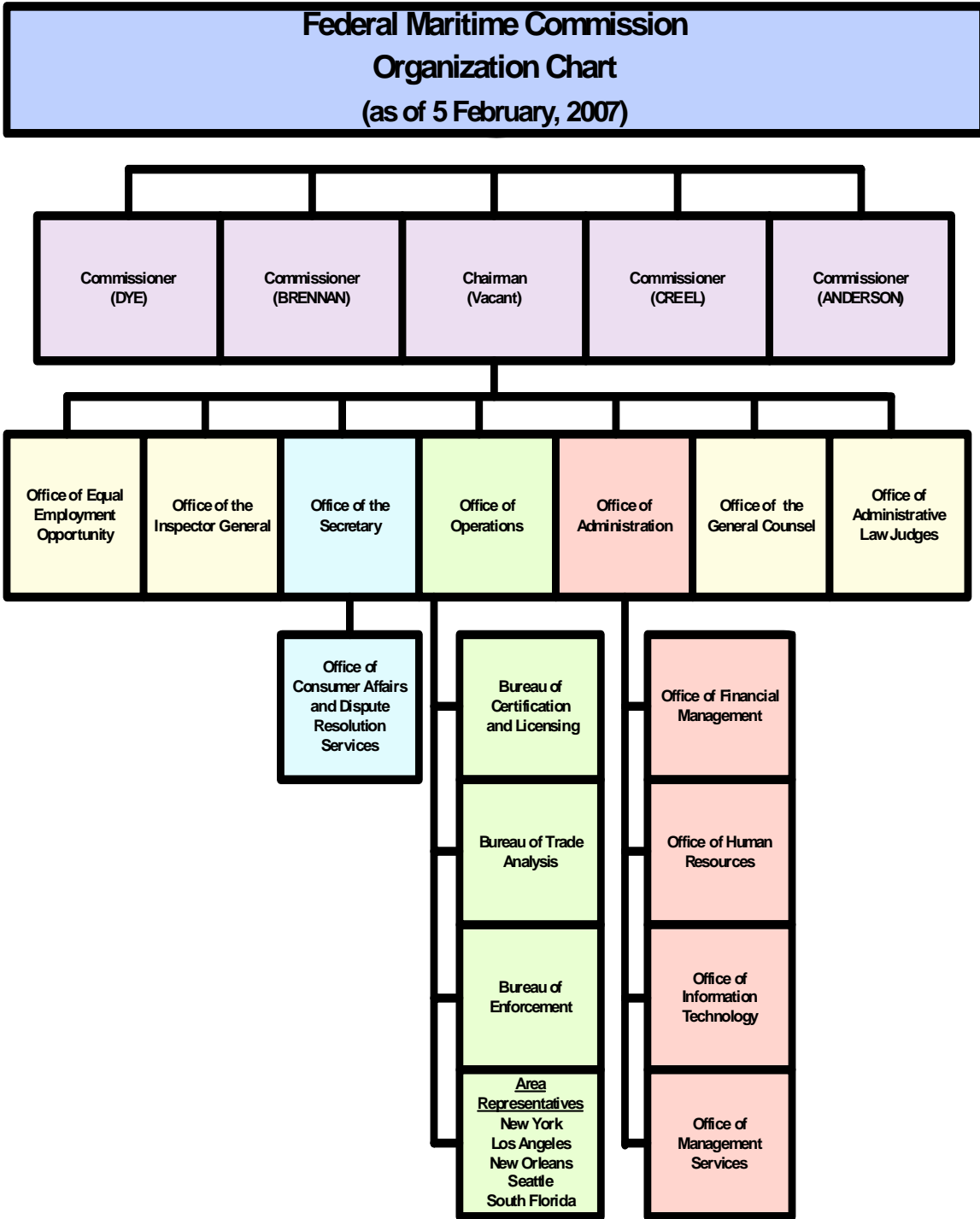
As part of its program objectives for fiscal years 2007 and 2008, the Commission is planning to:

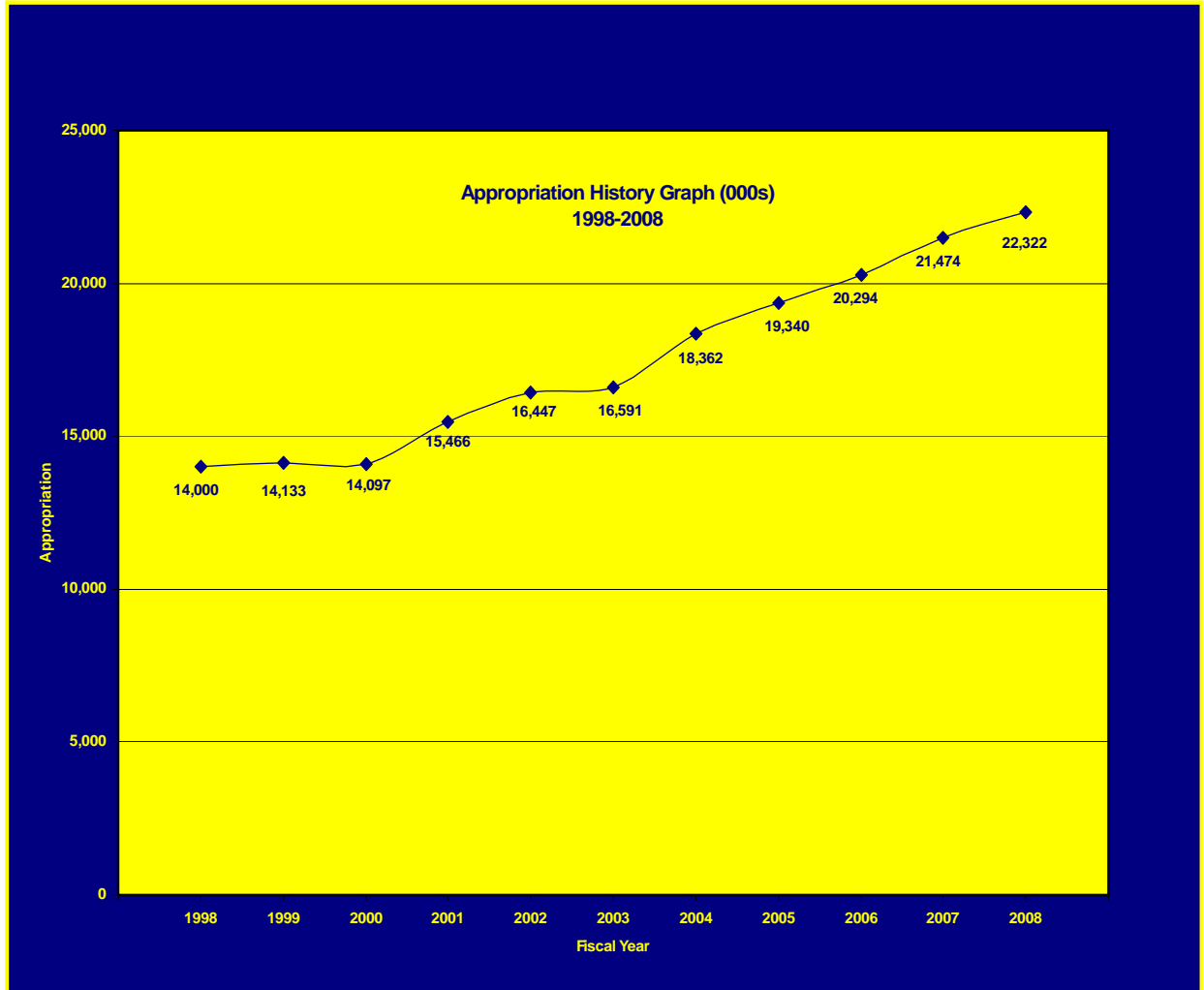
- ◆ Continue to meet with officials of various trading partners to discuss issues of mutual interest and to coordinate activities where possible.
- ◆ Continue to accumulate information on the laws and practices of foreign governments and monitor activities in the U.S. foreign trades to address appropriately any condition which appears unfavorable to U.S. shipping interests.
- ◆ Continue to expand public outreach seminars to educate maritime transportation users and providers about Commission statutes and regulations, and to encourage voluntary compliance with applicable laws and regulations.
- ◆ Continue the Commission's monitoring, surveillance and enforcement programs to ensure compliance with the shipping statutes.
- ◆ Continue to emphasize maritime homeland security by enhancing involvement with inter-agency working groups and adjusting ongoing operations to focus on this area of concern.
- ◆ Provide consumer assistance consistent with the policies of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," while also assisting regulated entities in achieving compliance with statutory requirements.
- ◆ Continue to monitor agreement activities and trade conditions, and prepare reports and economic analyses covering a wide variety of developments and issues in key U.S. trades.
- ▲ Continue to process and review agreements, service contracts and NSAs.
- ▲ Continue to participate in activities to help identify any service contract provisions that may bear on maritime security concerns.
- ◆ Implement measures to provide for the option of electronic submission of most agency forms and to provide for the option of electronic payment of funds to the Commission, implement the new Internet upgrade as part of a government-wide initiative, perform database design integration to maximize the usefulness of collected data and eliminate duplication of effort, in line with the requirements of the Government Paperwork Elimination Act ("GPEA"), and continue Commission efforts to comply with and implement other Congressional and Presidential information technology ("IT") initiatives such as the Federal Information Security Management Act ("FISMA").
- ◆ Complete evaluation of the impact of the new agreement rules on the industry and the internal processes of the agency.

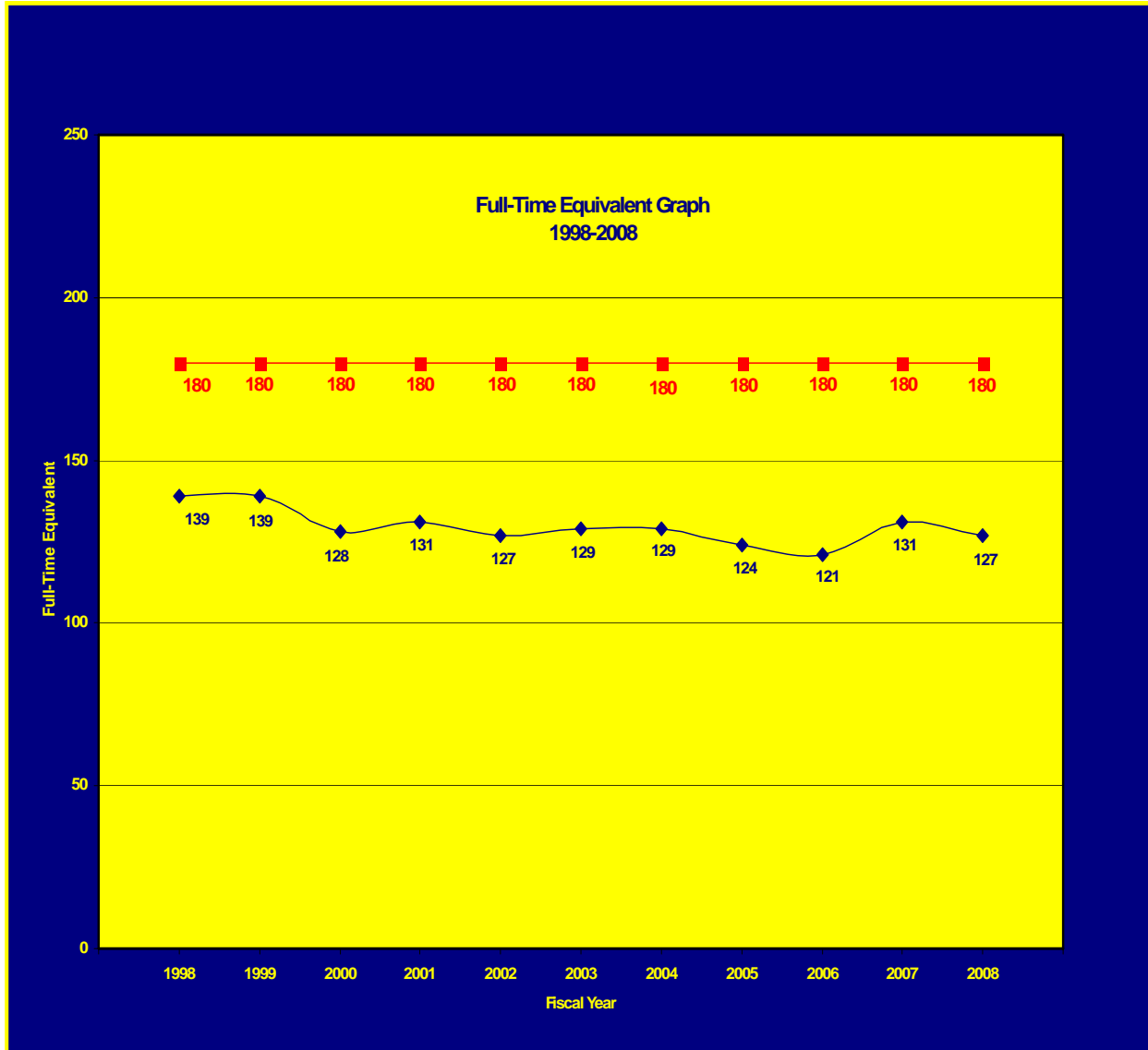
- ◆ Further enhance public access to filed agreements, develop and implement procedures for the electronic filing of agreements, agreement monitoring reports and minutes, and develop a database for these filings to maximize usefulness of the data collected for monitoring competitive conditions in U.S. trades.
- ◆ Link the new PIERS data analysis system to the enhanced Agreements database to facilitate the review of new agreements or modification of existing agreements.
- ◆ Conduct detailed research into the effectiveness of the PierPASS system and the impacts of its pricing procedures and cost allocation methods.
- ◆ Automate forms for service contract and NSA registration to encourage the use of electronic filing and increase the accuracy of data and the ease of retrieval of information.
- ◆ Enhance the usefulness of service contract and NSA data through upgrades to the SERVCON system so that trends and relevant developments may be determined more easily.
- ◆ Initiate a rulemaking to update regulations regarding the Commission's statutory obligation regarding passenger vessel financial responsibility including automation of PVO application Form 131 to facilitate the filing of PVO applications.
- ◆ Redesign the functionality of the OTI list on the homepage to include more information and make it more interactive.
- ◆ Enable the electronic filing of OTI bonds.
- ◆ Focus on unlicensed OTI activity in the transportation of household goods, and expand the OTI monitoring program.
- ◆ Redesign and update the agency's intranet to provide better access to internal information.
- ◆ Develop an online catalogue for the Commission's law/reference library collection, allowing staff access to the catalogue from their desktops, increasing efficiency in searching library resources.
- ◆ Facilitate access to information involved in formal Commission proceedings by electronically serving various issuances and making public filings available on our homepage, and improve responsiveness to requests for public information.
- ◆ Review and revise Commission rules as necessary to ensure consistency with port and maritime security initiatives undertaken by Congress and other Federal agencies.
- ◆ Ensure that information disseminated to the public continues to comply with all requirements of section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, in accordance with the procedures and standards set forth in the Commission's published Information Quality Guidelines.

- ◆ Continue to refine internal audit and controls programs, and financial management systems, to prevent fraud, waste, mismanagement, and misuse of Government funds within the Commission.
- ◆ Further develop emergency preparedness and continuity of operations planning/activities.
- ◆ Implement Homeland Security Presidential Directive 12 (“HSPD 12”), the new government-wide identification card system.
- ◆ Continue succession planning and further development of an Emerging Leaders Program for staff, and implement the agency’s new performance appraisal system.
- ◆ Assess telework program to encourage usage and advance efficiency of operations.
- ◆ Implement the use of electronic employee records.
- ◆ Migrate to an updated platform for paperless check conversion.
- ◆ Continue to monitor the representation of minorities and women in the workplace and update procedures for affirmative action, complaints processing, and special emphasis and handicap programs. Initiate additional activities designed to increase an understanding of EEO concepts and principles.

The budget estimates for fiscal year 2008 in the amount of \$22,322,000 provide funding for 127 work years of employment. Funding at this level enables the Commission to maintain and continue its existing statutory programs effectively and efficiently.







FEDERAL MARITIME COMMISSION

Appropriation: Salaries and Expenses

Budget Year: 2008

Summary of Requirements

ID Code: 65-0100-0-1-403	2007 Estimate	2008 Estimate	Difference	Difference %
Direct obligations:				
11.1 Full-Time Permanent	12,530,000	12,777,000	247,000	1.97%
11.3 Other than full-time permanent	56,000	58,000	2,000	3.57%
11.5 Other personnel compensation	0	0	0	0.00%
11.9 Total personnel compensation	\$12,586,000	\$12,835,000	\$249,000	1.98%
12.0 Civillian personnel benefits	2,947,000	3,041,000	94,000	3.19%
21.0 Travel and transportation of persons	237,000	260,000	23,000	9.70%
22.0 Transportation of things	10,000	12,000	2,000	20.00%
23.1 Rental payments	2,867,000	3,104,000	237,000	8.27%
23.2 Communications, utilities, and miscellaneous charges	284,000	297,000	13,000	4.58%
24.0 Printing and reproduction	172,000	157,000	-15,000	-8.72%
25.0 Other services	2,152,000	2,383,000	231,000	10.73%
26.0 Supplies and materials	189,000	233,000	44,000	23.28%
31.0 Equipment	30,000	0	-30,000	-100.00%
Totals	\$21,474,000	\$22,322,000	\$848,000	3.95%

FEDERAL MARITIME COMMISSION			
<u>Program by Activities</u>			
(\$000)			
	2006	2007	2008
	Actual	Estimate	Estimate
Formal Proceedings	6,403	7,160	7,196
Equal Employment Opportunity	199	182	189
Inspector General	466	513	546
Operations	9,094	9,973	10,446
Administration	4,127	3,646	3,945
Total Obligations	20,289	21,474	22,322

FEDERAL MARITIME COMMISSION			
<u>Summary of Employment</u>			
Offices	2006 Actual Workyears	2007 Estimate Workyears	2008 Estimate Workyears
Formal Proceedings	36	40	39
Office of Commissioners	8	11	10
Office of the Secretary	14	15	15
Office of the General Counsel	12	12	12
Office of Administrative Law Judges	2	2	2
Office of Equal Employment Opportunity	1	1	1
Inspector General	2	3	3
Office of Operations	59	63	61
Office of the Director	4	6	6
New York Area Representative	1	2	2
New Orleans Area Representative	1	1	1
Los Angeles Area Representative	1	1	1
South Florida Area Representative	2	2	2
Seattle Area Representative	1	1	1
Bureau of Trade Analysis	22	22	20
Bureau of Certification and Licensing	17	18	18
Bureau of Enforcement	10	10	10
Office of Administration	23	24	23
Office of the Director	4	4	3
Office of Information Technology	6	6	6
Office of Human Resources	3	4	4
Office of Financial Management	5	5	5
Office of Management Services	5	5	5
Total Work Years (FTE)	121	131	127

FEDERAL MARITIME COMMISSION Summary of Salaries and Benefits (\$000)								
	2006 Actual		2007 Estimate		2008 Estimate		Difference	
	WY	Amount	WY	Amount	WY	Amount	WY	Amount
Full Time Permanent Employment	120	11,192	130	12,530	126	12,777	-4	247
Temporary and Part-Time Employment	1	50	1	56	1	58	0	2
Overtime		0		0		0		0
Awards		435		0		0		0
Total Salaries	121	11,677	131	12,586	127	12,835	-4	249
Personnel Benefits		2,567		2,947		3,041		94
Total Salaries and Benefits	121	14,244	131	15,533	127	15,876	-4	343

The salaries estimates for fiscal year 2008 are increased by \$249,000 over fiscal year 2007. The funding provides for annualization costs of 2007 salary increases; general schedule pay step increases (within grades); for the anticipated 2008 pay increase @ 2.5%, and career-ladder promotions. This request funds the staffing anticipated to be on board when fiscal year 2008 begins.

Personnel benefits amount to \$3,041,000 in fiscal year 2008 for current programs, which includes the FMC's contribution to CSRS, FERS, Social Security, group life insurance and FEHB, and worker's compensation and medical benefits. This is an increase of \$94,000.

FEDERAL MARITIME COMMISSION				
<u>Travel and Administrative Expenses</u>				
(\$000)				
	2006 Actual	2007 Estimate	2008 Estimate	Difference
Travel	227	237	260	23
Administrative Expenses	5,818	5,704	6,186	482
Transportation of Things	6	10	12	2
Rental Payments	2,850	2,867	3,104	237
Communications, Utilities & Misc Charges	245	284	297	13
Printing and Reproduction	108	172	157	-15
Other Services	2,132	2,152	2,383	231
Supplies and Materials	239	189	233	44
Equipment	238	30	0	-30
Total Travel and Administrative Expenses	6,045	5,941	6,446	505

Travel funding is necessary to allow Commission staff to meet with representatives of the shipping industry to resolve problems through direct negotiations, conduct on-site audits of carriers, consult with foreign trading partners to ensure comity in international regulatory affairs, and expand compliance oversight into interior U.S. points not otherwise readily accessible to FMC Area Representatives from their base port locations. Travel estimates are increased for fiscal year 2008 for anticipated per diem and airfare increases, as well as to accommodate planned, significant increases in outreach, Alternative Dispute Resolution and compliance activities for the agency's five Presidential appointees and agency staff, and to accommodate an increase in staff travel in furtherance of training opportunities and casework.

In fiscal year 2008, administrative expense estimates reflect a net increase of \$482,000. Included in the request is a \$237,000 increase in rent to accommodate rent rate increases. Additionally, transportation of things (FEDEX) is increased by \$2,000, communications are increased by \$13,000, supplies are increased by \$44,000, and other services are increased by \$231,000 for increases to commercial and government contracts. These increases are partially offset by reductions of \$30,000 for furniture and equipment and \$15,000 for printing and reproduction.

Formal Proceedings Program

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

Linking Program Funding to Strategic/Performance Goals

For fiscal year 2008, we have developed a performance goal for the Formal Proceedings program to support specific agency strategic goals in Technological Efficiencies. To improve our services to stakeholders and the public, we intend to continue to improve, integrate, and increase the amount of information available internally through electronic means. To accomplish this objective, a specific performance goal has been established to explore options and begin the development of an online catalogue for the Commission's law/reference library catalogue. This goal will provide an efficient tool for Commission staff to access the library catalogue from their desktops, allowing for increased efficiency in searching library resources. In addition, it is anticipated that online catalogue entries could be directly linked to other electronic library resources, which will reduce the redundancy of data entry across library databases.

Office of the Commissioners

The Chairman of the Commission is designated by the President of the United States and serves as the agency's chief executive and administrative officer. As such, the Chairman has exclusive authority over agency personnel matters, organization and supervision, distribution of business and use of funds for administrative purposes.

The Chairman and the other four Commissioners are responsible for making decisions and determinations in the disposition of docketed cases, and ensuring the efficient, equitable and expeditious resolution of all matters arising under statutes administered by the Commission. The Commission promulgates rules and regulations and issues decisions which interpret, enforce and assure compliance with the 1984 Act, as amended by OSRA, the 1920 Act, FSPA, and P. L. 89-777. During the fiscal year ending September 30, 2006, the Commission issued 15 orders and notices in docketed proceedings.

Office of the Secretary

The Office of the Secretary serves as the focal point for matters submitted to and emanating from the members of the Commission. It is the public's main contact point with the FMC. The Office receives and processes a variety of documents filed by the public, including: complaints initiating adjudicatory proceedings for alleged violations of the shipping statutes and other applicable laws; special docket applications and applications to correct clerical or administrative errors in service contracts or NVOCC service arrangements; all communications, petitions, notices, pleadings, briefs, or other legal instruments in administrative proceedings; and subpoenas served on the FMC, its members or employees. The Office is responsible for preparing and submitting regular and notation agenda matters for consideration by the Commission and preparing and maintaining the minutes of actions taken by the Commission on these matters; issuing orders and notices of actions of the Commission; maintaining official files and records of all formal proceedings and Commission regulations; issuing publications; and authenticating instruments and documents of the Commission. The Office also responds to information requests from Commission staff, the maritime industry, press, and the public; administers the Freedom of Information, Government in the Sunshine, and Privacy Acts; compiles historical Commission decisions; maintains a public reference/law Library and a Docket Activity Library; manages the Commission's Internet website; and participates in the development and coordination of agency-wide public relation/outreach strategies and initiatives. The Office of the Secretary also oversees the Office of Consumer Affairs and Dispute Resolution Services. The Secretary's Office also participates in the implementation of legislative changes to the shipping statutes.

During fiscal year 2006, the Office of the Secretary continued to administratively process and direct all major filings addressed to the Commission and its component offices, including agreements filed under section 5 of the 1984 Act, which must be reviewed and processed within 45 days. The Office continued to make improvements to the Commission's website by adjusting how information is presented and increasing the amount of information available. A number of programming enhancements were made to the administrative tool used to manage website organization and content. A new feature was added to the tool that allows uploading of large documents to the site -- giving users fast electronic access to reports formerly only available in hard copy and by visiting the Commission. The Frequently Asked Questions section of the tool was updated so that links can be directly added within this section, thereby making it easier to access additional information and resources. The Office continues to evaluate the overall usefulness of the site and works closely with other offices and bureaus to improve its content and user-friendliness.

The Office remained involved in the Commission's ongoing effort to expand contact with all segments of the maritime community and the public during the fiscal year. Several initiatives were undertaken by Commission staff to improve industry outreach, including compiling new lists of government and media contacts, updating educational and informational material, and continuing to host briefings given by various segments of the industry to facilitate dialogue and understanding. Finally, Commission public relations policies were gathered and analyzed to determine the best policies to foster open communication with all segments of the Commission's constituency.

The process of electronically scanning/imaging Commission records also continued during fiscal year 2006. During the fiscal year, the Office assessed agency-wide document scanning requirements, and selected a new, more robust and flexible document scanning system to replace its current system. New scanning software and equipment were installed, and data migration from the old system to the new one was started during the fiscal year. Data migration will be completed during fiscal year 2007, and the new system will become fully functional. This new system will help support the agency's continuity of operations initiatives by improving preservation and Commission staff access to Commission documents, as well as improving Commission staff response time to public inquires and public access to electronic files.

During the fiscal year, the Office continued, and in large part completed, its initiative to fill a publication gap for Commission decisions and to make more information available electronically. Commission decisions from 1987-1997 were compiled and converted to electronic form. Commission Decisions from 1987-1995 were posted on the Commission's website during the fiscal year, with the balance posted by the end of October 2006. In addition, the Office made opening/reply briefs, exceptions, and replies in selected docketed proceedings available through its website. Throughout fiscal years 2007 and 2008, the Commission will continue to increase the number of documents available through its website.

During fiscal years 2007 and 2008, the Office will continue to take the lead in accomplishing the agency's performance goals related to making more Commission information and filed documents available electronically and to improving responsiveness to requests for public information. Specifically, the Office of the Secretary will integrate the Commission's internal complaints database with other internal databases, expand the amount of internal information electronically available to Commission staff and improve staff access to internal FMC information by completing the redesign of the agency's Intranet, and begin to develop an online catalogue for the Commission's law/reference library collection.

Office of Consumer Affairs and Dispute Resolution Services ("CADRS")

The Office of Consumer Affairs and Dispute Resolution Services is responsible for, among other things, developing and implementing the Commission's Alternative Dispute Resolution ("ADR") program. Through this program, the Commission provides services to assist parties in resolving disputes and shipping problems in the U.S. ocean shipping commerce. These include a broad range of services designed to avoid the expense and delays inherent in litigation, and to facilitate the flow of U.S. ocean commerce.

The Office encourages parties to avail themselves of mediation or other ADR processes such as conciliation, facilitation, fact finding, mini-trials, or arbitration as means to resolve disputes. The Commission makes trained neutrals available to facilitate the resolution of shipping disputes, whether prior to or after commencement of the litigation process. If parties prefer outside neutrals, the Office will assist parties in locating acceptable neutrals with appropriate expertise.

During fiscal year 2006, Commission mediators provided mediation services in six dispute resolution proceedings, attempting to assist parties in avoiding significant litigation costs and risks. An example of such proceedings is the dispute among a major port authority and two terminal operators about rights to certain facilities and concerns by one operator that port actions would make it impossible for it to continue to stay in business. Through the mediation process, the parties reached agreement on all issues, enabling all parties' needs to be met. The resolution avoided protracted litigation. Another example involved a significant dispute as to the amount of detention charges. In this matter, an NVOCC had collected substantial charges from a consignee in anticipation of potential equipment detention charges which, in fact, had not been charged by the ocean common carrier. Office staff mediated a resolution among the consignee, NVOCC and ocean carrier.

The Office also provides *ombuds* services to participants in ocean shipping transactions. Typical complaints include situations where an NVOCC or steamship line has placed a lien on cargo in its possession, often for sums owed under a different contract of carriage, and cases in which an NVOCC has received cargo from its customer and taken payment for the transportation of the cargo, but failed to deliver the cargo. Tracking the whereabouts of a shipment can be difficult, and often additional charges have accrued, necessitating payment of additional funds to obtain release of the shipment.

During fiscal year 2006, approximately 3,632 complaints and information requests were processed. Of those, 632 complaints required *ombuds* dispute resolution services. These included 221 complaints about cruise issues, 178 household goods matters, and 233 other matters affecting cargo shipments.

Complaints involving the transportation or handling of cargo continued to increase, partly due to the Commission's revitalized focus on informal and non-adjudicatory means of complaint resolution, and the increased awareness of Commission assistance available through electronic and other means of communication.

Conversely, fewer complaints were received from individuals concerning household goods shipments. The decrease is primarily attributable to improved outreach and the Commission's institution of a formal investigation of several problem movers. In addition to opening the proceeding, injunctions were obtained against several companies and individuals to prohibit their continued operation. As a result, several entities ceased operations, thereby substantially reducing the number of complaints against those entities.

Information about the Commission's services has been disseminated by consumers through other websites, such as certain blog sites for those experiencing moving problems. In addition, the Commission's website has been expanded to provide consumer advice and to caution consumers to deal only with properly licensed OTIs. As a result, we receive more inquiries from consumers searching for a valid OTI, and correspondingly fewer post-shipment complaints.

Consumers increasingly are using the Internet in order to find a means of shipping their personal effects internationally. While there are many efficiencies with Internet usage, many so-

called "rogue movers" find it particularly effective to prey on unsuspecting consumers by offering services through very sophisticated websites. These entities usually are unlicensed and often operate only through a website that does not identify a correct address or name of the entity. Such entities tend to offer very low prices to entice customers. Once payments have been received, and goods have been picked up from the consumer's household, significant delays often are encountered, and additional payments demanded to continue with the shipment. Some customers have experienced lost cargo, delivery delays of up to one year, and have had to pay twice for the same ocean transportation services. A great deal of staff time was devoted to simply assisting consumers in locating their household goods, and once located, working with respondents, licensed OTIs, and others to enable customers to retrieve their goods.

One example of household goods issues that involved intervention by Office staff resulted in the release of household goods being held at a German warehouse for nonpayment by a rogue mover. The consumer had been able to locate his personal effects, but the warehouse had refused to release them, as the rogue mover owed the warehouse for other shipments. As a result of staff intervention, the consumer was able to eventually obtain his goods. In another matter, a container loaded with seven shippers' household goods was on the verge of being returned to the United States. Office staff worked with the ocean carrier, a foreign, unlicensed NVOCC, a United Kingdom destination agent, and the British government to effect British Customs clearance, the unloading of the container, and the onward delivery of the household goods to the shippers' various European destinations.

With respect to passenger matters, the failure of a small cruise operator generated a number of complaints, and assistance was provided to a number of passengers in obtaining refunds for cruises that were canceled. In addition, a number of passengers were affected by certain vessels being taken out of service in order to provide berthing accommodations in the wake of Hurricane Katrina.

Another function of the Office includes the adjudication of small claims through informal proceedings under 46 CFR Part 502, Subpart S. Office personnel serve as Settlement Officers in such cases, which involve complaints seeking reparations up to \$50,000 for violations of the shipping statutes. Those claims generally involve alleged prohibited acts in connection with the international transportation of goods, or the failure to establish, observe, and enforce just and reasonable regulations and practices. CADRS staff also evaluates and adjudicates applications for permission to apply other than tariff rates, and to waive or refund freight charges arising from various errors in tariff publications, an inadvertent failure to publish an intended rate, or a misquotation of a rate.

In fiscal years 2007 and 2008, the Office intends to expand awareness of the ADR program through education and training and other outreach efforts. A brochure/pamphlet will be developed to provide advice to consumers in avoiding difficulty with moving internationally. Further efforts will be made to increase shipping industry awareness of less adversarial, more cost-effective means of resolving disputes in a manner that enables the parties to control the outcome. Use of mediation, in particular, will be promoted to assist in resolving formal proceedings and other significant disputes.

The Office also will continue to make consumer protection information available and will expand its outreach through various websites and media sources. While these efforts may be expected to generate additional complaints, their real value will be the number of consumers that are forewarned and thereby avoid problems. Through this means, assistance may be provided to many more consumers than could be possible through post-shipment problem resolution.

Library

The Office of the Secretary also administers the Commission's Library. The Library serves the Commission's research and information needs, and is a specialized repository of current and basic materials primarily covering the shipping industry, the history of shipping, and regulations covering all phases of shipping in U.S. foreign trade. It also contains material on several related fields such as engineering, economics, political science and an extensive collection of admiralty law. The Library includes such sources of information as law encyclopedias, engineering textbooks, law textbooks, Comptroller General Decisions, and editions of the various National Reporter systems. The Library's holdings consist of approximately 4,500 volumes and numerous microfiches, CD-ROMs and on-line services.

Formal Proceedings Program										
Office of the Secretary										
Statistical Workload Summary										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	On Hand 09/30/05	Receipts	Output	On Hand 09/30/06	Receipts	Outputs	On Hand 09/30/07	Receipts	Outputs	On Hand 09/30/08
Commission Docketed Proceedings (Formal, Special & Informal)	9	20	15	14	30	30	14	30	30	14
Commission Non-Docketed Proceedings	0	0	0	0	5	5	0	5	5	0
Service Contract Correction Applications	0	3	3	0	2	2	0	2	2	0
Non-Docketed Informal Complaints	68	632	500	200	675	600	275	750	700	325
Responses to Shipment Transaction Inquiries or Information Requests	0	3,000	3,000	0	3,000	3,000	0	3,000	3,000	0
Docketed Informal Complaints	8	13	5	16	15	15	16	15	15	16
Special Dockets	0	2	2	0	2	2	0	3	3	0
Agenda Items	0	73	73	0	100	100	0	110	110	0
Pages of Minutes	0	85	85	0	110	110	0	130	130	0
Federal Register Notices	0	323	323	0	300	300	0	300	300	0
FOIA Requests	5	24	28	1	50	50	1	60	60	1
Certifications	0	4	4	0	4	4	0	4	4	0

Office of the General Counsel

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

Rulemaking and Decisions

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

(a) Rulemakings

***Non-Vessel-Operating Common Carrier Service Arrangements*, [Docket No. 04-12], 30 S.R.R. 592 (February 8, 2005); *Non-Vessel-Operating Common Carrier Service Arrangements*, [Docket No. 05-05], 30 S.R.R. 763 (September 23, 2005); *Non-Vessel-Operating Common Carrier Service Arrangements (Notice of Inquiry)*, [Docket No. 05-06], ___ S.R.R. ___ (August 30, 2005)**

Unlike VOCCs, NVOCCs are limited by the Shipping Act to offering common carrier services for the carriage of international oceanborne cargo to the shipping public under the terms of a published tariff. The Commission initiated this proceeding with the issuance of a notice of proposed rulemaking (“NPR”) on October 28, 2004. The NPR was issued to solicit public comment on specific proposed language for an exemption to the tariff publication requirements of section 8(a) of the Shipping Act, 46 U.S.C. § 40501, for cargo moved by NVOCCs for their shipper customers on a contractual basis. Commenters initially were given until November 19, 2004, to submit comments on the NPR; this period was later extended to November 30, 2004.

The Commission voted to issue a Final Rule on December 15, 2004, at a public meeting. The Final Rule became effective on January 19, 2005.

The Final Rule exempts NVOCCs offering NSAs from the publication requirements of the Shipping Act, subject to certain conditions. The Final Rule defines an NSA as “a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC or two or more affiliated NVOCCs, in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level. The NSA may also specify provisions in the event of non-performance on the part of any party.”

The Final Rule’s exemption is conditioned on the electronic filing by the NVOCC of the NSA with the Commission, through its web-based electronic filing system SERVCON, in the same

manner as VOCCs file service contracts provided for in section 8(c) of the Shipping Act, 46 U.S.C. § 40502. Analogous to the Shipping Act's requirements for service contracts offered by VOCCs, the exemption also requires that the essential terms of all NSAs be published in the NVOCC's tariff publication.

Due to prior judicial interpretations of the extent of the antitrust immunity granted by the Shipping Act, the Commission declined several Commenters' requests to extend the exemption to encompass arrangements between two or more NVOCCs, including shippers' associations whose members include NVOCCs. The Commission found that such an exemption could confer antitrust immunity on arrangements between and among NVOCCs, and that this could result in substantial reduction in competition, contrary to the Shipping Act's exemption standards.

Subsequently, after issuance of an opinion by the U.S. Court of Appeals for the Fourth Circuit which clarified that NVOCCs are not entitled to antitrust immunity under the Shipping Act, on September 23, 2005, the Commission issued a final rule extending the exemption to allow NVOCCs to offer NSAs to other NVOCCs as well as shippers' associations with NVOCC members. This Final Rule became effective on October 28, 2005. The Commission also determined that it would further consider the expansion of the exemption to enable two or more unaffiliated NVOCCs to jointly offer NSAs. On August 30, 2005, the Commission issued a Notice of Inquiry, seeking comments on such joint NSA authority. 70 Fed. Reg. 52345 (September 2, 2005). The responses to that inquiry are currently under review by the General Counsel's Office.

(b) Decisions

***Anchor Shipping Co. v. Alianca Navegacao E Logistica Ltda.*, [Docket No. 02-04], 30 S.R.R. 991 (May 10, 2006)**

This proceeding was initiated by a complaint filed by Anchor Shipping Co. ("Anchor") against Alianca Navegacao E Logistica Ltda. ("Alianca"). Anchor, an NVOCC, alleged that Alianca, an ocean common carrier, violated numerous sections of the Shipping Act during the course of its service contract with Anchor. Anchor sought \$1,000,000 in reparations.

Prior to filing its complaint with the Commission, Anchor and Alianca participated in binding arbitration. After reviewing the evidence, the arbitrator issued a decision in which Anchor was awarded over \$381,000, which Alianca paid. Following the issuance of the arbitrator's decision, Anchor filed its complaint with the Commission. In response, Alianca filed a motion to dismiss.

The ALJ issued an Order dismissing Anchor's complaint. The ALJ determined that it would be unfair and unjust to allow Anchor to litigate a claim that had been previously settled in arbitration. Anchor appealed the ALJ's ruling to the Commission.

The Commission issued an Order vacating the ALJ's dismissal order and remanded the proceeding to an ALJ for further adjudication. The Commission found that the ALJ improperly dismissed Anchor's complaint. The Commission held that precluding Anchor from filing its

complaint merely because it had previously participated in private arbitration would be inconsistent with the agency's statutory mandate. The Commission further explained that arbitration would be appropriate to resolve breach of contract claims, but cannot prohibit the Commission from exercising its statutory obligations. Specifically, when a complaint contains allegations specific to the Shipping Act such as unfair or unjustly discriminatory practices, undue or unreasonable preferences, and undue or unreasonable prejudice or disadvantage, such complaints are appropriately before the Commission.

Sea-Land Service Inc. - Possible Violations of Sections 10(b)(1), 10(b)(4) and 19(d) of The Shipping Act of 1984 [Docket No. 98-06], 30 S.R.R. 872 (February 8, 2006)

The Commission issued an Order of Investigation and Hearing on April 24, 1998, to determine whether Sea-Land Service, Inc., a VOCC, violated the Shipping Act by substituting larger containers for smaller ones for certain NVOCCs and charging those NVOCCs rates lower than it lawfully should have charged based on the amount of cargo actually loaded into the larger containers. The Order also alleged that Sea-Land paid forwarder compensation to certain freight forwarders who did not perform forwarding services.

By Order dated February 8, 2006, the Commission affirmed the ALJ's rulings that Sea-Land violated sections 10(b)(1) by failing to collect the rates contained in its applicable tariff and 10 (b)(4) by failing to collect the applicable rate through an unjust device or means. The Commission vacated the \$4,082,500 penalty assessed by the ALJ and imposed instead a penalty of \$820,000 for the violations.

Litigation

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

The following is representative of matters litigated by the Office:

American Institute of Shipper's Associations v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1036; International Shippers' Association v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1037

This proceeding is an appeal of the FMC's final rule, and its order denying rehearing, in Docket No. 04-12, *Non-Vessel-Operating Common Carrier Service Arrangements*. In order to ensure that competition would not be harmed, that rule forbade NVOCCs and shippers' associations with NVOCC members from acting as shippers in NSAs. The petitioners sought to convince the Court of Appeals either that the Commission's rule is discriminatory against shippers' associations with NVOCC members, or that the rule is entirely beyond the scope of the agency's authority. The Court, on its own motion, consolidated Case Nos. 05-1036 and 05-1037. On May 11, 2005, the following entities were granted leave to intervene in support of the

FMC's rule: BAX Global Inc., FEDEX Trade Networks Transport & Brokerage, Inc., National Industrial Transportation League, Transportation Intermediaries Association, and United Parcel Service, Inc. The Court also granted permission to the Fashion Accessories Shippers Association ("FASA") to participate as an *amicus curiae*. Following amendments made by the Commission to the NSA rule, petitioners moved for voluntary dismissal of the petitions. *Amicus curiae* FASA moved to convert its status to intervenor, in order to continue the case. On January 12, 2006, the court issued a *per curiam* Order granting petitioners' motions for voluntary dismissal of these consolidated proceedings. The Court also denied FASA's motion to intervene.

American President Lines v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1288; Horizon Lines, LLC v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1289; Government of the Territory of Guam v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1360

These proceedings involved appeals of the Commission's orders in Docket No. 89-26, *The Government of Guam, et. al. v. Sea-Land Service, Inc. and American President Lines, Ltd.*, served June 1, 1998, and *The Government of the Territory of Guam v. Sea-Land Service, Inc. and American President Lines, Ltd.*, served July 11, 2005. Horizon Lines, LLC ("Horizon") (the successor company to Sea-Land Service, Inc.) and American President Lines, Ltd. ("APL"), appealed the Commission's June 1, 1998, Order which found them to have collected excess revenues in violation of the Shipping Act, 1916. The Government of Guam appealed both Orders. The Commission, in the July 11, 2005, order, found that the Government of Guam did not prove damages and denied reparations and dismissed the proceeding. The appeals of the June 1, 1998, order were made at this time because that order did not become final for purposes of court appeal until the Commission completed the final phase of the proceeding with the issuance of its July 11, 2005 order. The Court consolidated the three proceedings. On April 5, 2006, the Court granted a motion by the Government of Guam to withdraw its appeal, thereby terminating its role in the appeal of the Commission's Orders. Shortly after the Court's dismissal of the Government of Guam's appeal, APL and Horizon filed motions to withdraw their separate appeals. The Court granted APL's and Horizon's motions and dismissed the remaining consolidated proceedings by order dated June 12, 2006. As a result of the dismissals of all appeals, the litigation which began seventeen years ago with the filing of the Government of Guam's complaint with the Commission has concluded.

Federal Maritime Commission v. All-In-One Shipping, Inc., et al. U.S. District Court for the Southern District of Florida, Case No. 06-60054 – Civ

On January 11, 2006, the Commission commenced Docket No. 06-01 by issuing an Order of Investigation and Hearing to determine whether nine household goods moving companies and their owners and/or primary corporate officers (14 individuals) were operating in violation of sections 8, 10, and 19 of the Shipping Act by operating as NVOCCs without obtaining a license, without providing proof of financial responsibility, without publishing an electronic tariff and by failing to establish, observe, and enforce just and reasonable regulations and practices related to receiving, handling, storing, or delivering property.

The U.S. District Court for the Southern District of Florida issued a preliminary injunction by order dated January 17, 2006, at the request of the Commission. The injunction enjoins four of the household goods moving companies and three of the individuals named in the Commission's Order from operating as NVOCCs in violation of the Shipping Act by accepting cargo for transportation, and for advertising for or soliciting cargo while operating as an OTI without a valid license, bond or other security on file with the Commission. In addition to each of the companies and individuals named in the injunction, the named companies' and individuals' agents, servants, employees, and attorneys, and those in active concert or participation, are also enjoined.

The Court found that the Commission met the requirements for issuance of the injunction by showing a substantial likelihood of success on the merits, that irreparable injury would be suffered unless the injunction were issued, the threatened injury to the moving party (the Commission) outweighed whatever damage the injunction might cause those enjoined, and that the injunction would not be adverse to the public interest.

The Court injunction and the Commission's formal investigation are based on more than 250 consumer complaints. Those complaints included: (1) failure to deliver cargo and refusal to return the pre-paid ocean freight; (2) losing the shipper's cargo; (3) charging the shipper for marine insurance which was never obtained; (4) misleading the shipper as to the whereabouts of the cargo; (5) after initially quoting a rate to the shipper, withholding the cargo until a subsequent higher rate is paid by the shipper; and, (6) the shipper having to pay another carrier or warehouse to obtain release of cargo after having already paid a respondent for that transportation or warehousing. The injunction will remain in effect until 10 days after the Commission issues an order disposing of the issues under investigation in the related proceeding, Docket No. 06-01.

Legislative Activities

The OGC represents the Commission's interests in all matters before Congress. This includes preparing testimony for Commission officials, responding to Congressional requests for assistance and information, commenting on proposed legislation, proposing legislation, and responding to OMB requests regarding proposed bills and testimony.

During fiscal year 2006, 120 bills, proposals and Congressional inquiries were referred to the OGC for comment. The Office prepared and coordinated testimony for the agency's fiscal year 2007 budget authorization hearing before the U.S. House of Representatives Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation. In addition, the Office assisted in the written testimony for the agency's fiscal year 2007 budget requests submitted to the U.S. Senate Committee on Appropriations, Subcommittee on Transportation, Treasury, the Judiciary, HUD and Related Agencies. The Office also consulted with Congressional staff on the continuing efforts to revise, codify and enact certain maritime laws as part of Title 46, U.S. Code, Shipping.

In fiscal years 2007 and 2008, the OGC will continue to take the lead in providing assistance and technical advice to Congress regarding issues for possible legislative consideration, with

particular emphasis on port and maritime security initiatives. The Office will recommend legislative and regulatory amendments as necessary to ensure uniformity with other federal initiatives to allow for the efficient and secure flow of ocean transportation. Additionally, the Office will continue to serve as liaison with other federal agencies with respect to port and maritime security.

Foreign Shipping Restrictions and International Affairs

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

In fiscal year 2006, the Commission continued to monitor potentially restrictive shipping practices of the Government of Japan.

The OGC represented the Commission at the 27th meeting of the Asia-Pacific Economic Cooperation (“APEC”) Transportation Working Group, a group composed of staff-level experts in various modes of transportation from the relevant government agencies of each member economy. The Deputy General Counsel made a formal presentation on perspectives on the United States’ experience with shipping deregulation under OSRA and provided information on U.S. legislation and regulation to the APEC Transportation Working Group. The OGC also represented the Commission at the 28th APEC Transportation Working Group meeting.

The OGC also pursued informally several matters that involved potentially restrictive foreign practices including new legislation, new interpretations of existing legislation and new regulations of non-domestic carriers’ terminal handling charges.

The Commission continued to monitor developments relating to restrictive practices in Japanese ports, including the effects of amendments to the Port Transportation Business Law enacted in 2000 and 2005. The Commission continued to receive and evaluate semi-annual reports from its proceeding in Docket No. 96-20, *Port Restrictions and Requirements in the United States/Japan Trade*.

The Commission’s Permanent Task Force on International Affairs, chaired by the Deputy General Counsel, is a network of representatives from a number of Commission bureaus and offices. The Task Force meets to exchange information regarding new or continuing areas of concern relating to restrictive foreign shipping practices possibly necessitating action under one of the Commission’s statutory authorities in this area. The agency’s Task Force on International Affairs was internally evaluated in 2006 and a draft set of recommendations to improve its performance and effectiveness were outlined. These recommendations are presently under review.

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

In fiscal years 2007 and 2008, the OGC will continue to take the lead in accomplishing the agency's performance goals relating to eliminating restrictions that unjustly disadvantage U.S. interests. Through the Permanent Task Force on International Affairs, OGC will monitor foreign laws and practices to determine whether there are any unjust non-market barriers to trade. The Office will recommend appropriate action to the Commission as warranted.

Designated Agency Ethics Official

The Ethics Official is administratively within the Office of the Chairman, but the position is performed as a collateral duty by the Deputy General Counsel.

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

Formal Proceedings Program Office of the General Counsel										
Statistical Workload Summary										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	On Hand 09/30/05	Receipts	Output	On Hand 09/30/06	Receipts	Outputs	On Hand 09/30/07	Receipts	Outputs	On Hand 09/30/08
Litigation	4	5	7	2	4	3	3	3	3	3
Legislation	0	120	120	0	125	125	0	130	130	0
Legal Opinions, case summaries, decisions and final orders	0	125	125	0	130	130	0	135	135	0
Sec. 19/sec. 13 (b)(5) FSPA Proceedings	1	0	0	1	2	1	2	1	1	2
International affairs reports, policy papers, briefings, controlled carrier recommendations	0	35	35	0	35	35	0	35	35	0
Speeches, articles, presentations	0	15	15	0	20	20	0	25	25	0
Interagency & international group participation	0	30	30	0	35	35	0	40	40	0
Response to requests for information, oral & w written	0	275	275	0	280	280	0	285	285	0

Office of Administrative Law Judges

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

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

At the beginning of fiscal year 2006, there were 10 formal and 2 informal proceedings pending before the Office of ALJs. During the year, 8 formal cases and 1 informal case were added. The Office of ALJs issued initial decisions in 3 formal proceedings and 3 informal proceedings. Six formal proceedings were dismissed. At the end of the fiscal year, there were 9 formal proceedings pending before the Office of ALJs.

<u>Formal Proceedings Program</u>										
<u>Office of Administrative Law Judges</u>										
<u>Statistical Workload Summary</u>										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	On Hand 09/30/05	Receipts	Output	On Hand 9/30/06	Receipts	Outputs	On Hand 19/30/07	Receipts	Outputs	On Hand 09/30/08
Formal Proceedings	10	8	9	9	11	11	9	13	22	0
Special Proceedings	0	0	0	0	0	0	0	0	0	0
Informal Proceedings	2	1	3	0	4	4	0	4	4	0

Equal Employment Opportunity Program

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

The Director of EEO (“DEEO”) works independently under the direction of the Chairman to provide advice to the Commission's senior staff and management in improving and carrying out its policies and program of non-discrimination, workforce diversity and affirmative employment program planning. The DEEO arranges for EEO counseling or ADR for employees who raise allegations of discrimination; provides for the investigation, hearing, fact-finding, adjustment, or early resolution of such complaints of discrimination; accepts or rejects formal complaints of discrimination; prepares and issues decisions for resolution of formal complaints; and monitors and evaluates the program’s impact and effectiveness. In addition, the DEEO represents the agency on several intergovernmental committees, coordinates all affirmative program planning efforts and directs programs of special emphasis. The DEEO also supervises two collaterally-assigned EEO counselors.

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

Significant Accomplishments for Fiscal Year 2006:

Women and minorities continue to represent a majority of the FMC workforce in fiscal year 2006. Significant accomplishments include the following: (1) provided EEO briefings to senior staff and new employees; (2) gave EEO/Affirmative Employment Programs presentation to all FMC employees; (3) provided information to employees about internet sites with Diversity/EEO related information; (4) updated No FEAR Act statistics on FMC website {<http://www.fmc.gov/home/NoFearAct.asp>}; (5) provided counseling assistance to managers, supervisors and employees; (6) provided support and assistance to managers and supervisors in maintaining and effectively managing a diverse workforce; (7) updated Commission Order 52 on Equal Employment Opportunity and policies on non-discrimination and diversity, sexual harassment, and EEO alternative dispute resolution; (8) reviewed and assessed management and personnel human resource activity and actions; (9) maintained an effective discrimination complaint process that resolved issues informally and expeditiously; and (10) held special commemorative programs for all FMC employees, including Hispanic Heritage month, National Disability Employment Awareness month, National American Indian Heritage month, Black History month, Women’s History month, and Asian Pacific American month; (11) provided information to employees about Veterans Day; World AIDS Day; Holocaust Remembrance Day; Lesbian, Gay, Transgender and Bisexual Pride Month; and Women’s

Equality Day; (12) participated in meetings of several inter-agency councils in special emphasis areas; (13) coordinated activities of the FMC's Advisory Council on Women's Issues; (14) created, administered and analyzed a survey on agency issues; (15) EEO Director and counselors attended EEO refresher training/conferences; (16) prepared all required affirmative employment program accomplishment reports and plans; (17) coordinated the Commission's "Take Our Daughters and Sons to Work" program; and (18) managed the Commission's Emerging Leaders Program.

During fiscal years 2007 and 2008, the Office of EEO will continue all existing programs and initiate additional activities designed to increase an understanding of EEO concepts and principles, including workforce diversity, outreach, retention initiatives, and career development.

Inspector General Program

The Office of Inspector General (“OIG”) operates pursuant to The Inspector General Act of 1978 (1978 Act) (5 U.S.C. App. 3) as amended in 1988. The 1988 amendments created additional statutory offices of inspector general at various designated Federal entities, including the FMC.

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

The OIG is staffed by an Inspector General (“IG”), an Assistant Inspector General and an administrative assistant who performs administrative and support functions.

The IG works independently under the general supervision of the Chairman. The IG does not report to, and is not subject to supervision by, any other officer or employee of the FMC. The OIG has memorandums of understanding (“MOUs”) with the FMC’s Office of the General Counsel and with the Social Security Administration’s Office of Inspector General to provide legal counsel and criminal investigative assistance respectively on an as-needed basis. In addition, the Office utilizes the expertise of outside contractors to assist in performing specialized audits and reviews.

During fiscal year 2006, the Office issued an audit of the agency’s fiscal year 2005 financial statements and a companion report to management containing financial-related findings and recommendations resulting from the audit. The OIG also issued reports to management on agency compliance with FISMA, management challenges facing FMC in fiscal year 2005, data accuracy in the Bureau of Enforcement’s tracking systems, management controls over employee privacy information and the effectiveness of controls over select aspects of payroll processing. Finally, the OIG issued two semiannual reports to Congress discussing the Office’s audit and investigative activity for the fiscal year.

Also during the period, the Inspector General spoke at a joint Inspector General/Chief Information Officer symposium on information security.

The OIG received various Hotline complaints during the year, and a number of preliminary investigations were opened. The Office had no formal investigations during the reporting period. The OIG also received and responded to citizen inquiries regarding the FMC or other federal programs.

During fiscal years 2007 and 2008, the OIG will continue to place high priority on audits and reviews with the objective of improving agency programs and operations. The OIG will complete statutorily-required reviews to include an audit of the agency’s fiscal year 2006 financial statements and an evaluation of the agency’s information security program and privacy assurance controls as required by FISMA. The OIG will also undergo a review of its audit quality program performed by a sister OIG as part of a triennial peer review program and conduct a similar review of a third federal OIG.

The OIG will continue to actively participate in OIG community activities and maintain membership in the Executive Council on Integrity and Efficiency (“ECIE”) and the Federal Audit Executive Council (“FAEC”). The OIG will continue to work with the OMB, ECIE and FAEC on joint projects which affect the IG community. The Office will also continue to keep the FMC Chairman, OMB and the Congress fully informed regarding our audit and investigative activities.

Inspector General Program										
Statistical Workload Summary										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	On Hand 09/30/05	Receipts	Output	On Hand 9/30/06	Receipts	Output	On Hand 09/30/07	Receipts	Outputs	On Hand 09/30/08
Audits:										
Economy/Efficiency	1	1	2	0	2	2	0	1	1	0
Program	0	0	0	0	1	1	0	2	2	0
Financial	1	1	2	0	1	1	0	1	1	0
Security	1	0	1	0	0	0	0	1	1	0
Surveys	1	0	1	0	0	0	0	1	1	0
Investigations:										
Preliminary	0	2	2	0	3	3	0	3	3	0
Formal	0	0	0	0	1	1	0	1	1	0

Operations Program

Linking Program Funding to Strategic/Performance Goals

The Office of Operations is responsible primarily for the management and coordination of the agency's program areas. As such, the Office of Operations supports the following strategic goals: Compliance; Balanced Enforcement; and Technological Efficiencies. The agency has established seven performance goals in line with the strategic goals that will be supported by the Office of Operations. In support of Technological Efficiencies, three performance goals focus on automation of agency forms and integration of data. We intend to develop a plan to automate the FMC Form 131, the PVO Application form, and conduct a corresponding requirements analysis to make the Form 131 more user friendly and allow for more timely and effective review by staff. We will initiate a redesign of the OTI list maintained on the Commission's website to increase accessibility to information and facilitate public search capability. These initiatives will increase ease of compliance, efficiency, accuracy and consistency in the Commission's regulatory activities. Internally, we will integrate major agency databases. This will not only increase efficiency but will enhance analytical capabilities and improve data accessibility within the Commission. In support of Efficient Regulatory Process, we will assess the impact of recently implemented rules concerning carrier agreements. In support of Balanced Enforcement, we will undertake a review of the "best practices" program and its impact on compliance. These inquiries will allow us to gauge our success in increasing compliance with Commission rules. As well, we will develop a rulemaking providing for enforcement against cruise lines that fail to file reports required by law.

Office of Operations

Office of the Director

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

Bureau of Trade Analysis
Bureau of Certification and Licensing
Bureau of Enforcement

The Office of Operations oversees the development and operations of various Commission programs and recommends new programs and necessary changes in staff objectives.

In addition, the Office of Operations oversees the Area Representatives ("ARs"). The Commission maintains a presence in Los Angeles, South Florida, New Orleans, New York and Seattle through ARs based in each of those cities. These representatives serve other major port cities and transportation centers within their respective areas. In addition to monitoring and investigative functions, ARs represent the Commission within their jurisdictions, provide liaison between the Commission and the maritime industry and the shipping public, collect and analyze information of regulatory significance, and assess industry conditions. Liaison activities

involve cooperation and coordination with other government agencies and departments, providing regulatory information and relaying Commission policy to the shipping industry and the public, and handling informal complaints within each representative's area of responsibility. ARs also work on Commission outreach, through seminars, booths at various conferences and trade shows, presentations, and local community contacts. ARs visit headquarters for an AR conference once a year, and Operations staff travel to various AR offices throughout the year.

The Office of Operations supported the operational bureaus through oversight and guidance towards the accomplishment of many programmatic achievements during fiscal year 2006. In particular, the Office worked extensively with the bureaus and other agency offices to review Commission rules and regulations with regard to business practices in the OTI sector. The Office worked with the Bureau of Certification and Licensing to report to the Commission with regard to emerging industry changes in the OTI sector and to propose certain initiatives in that area. The Office continues to lead the Bureau of Enforcement, the Bureau of Certification and Licensing, and CADRS in review and coordination of compliance and enforcement policy. Significantly, the Office worked with the bureaus and other agency offices to take action against illegal conduct of household goods movers. Investigation by the ARs, in concert with information gathered by CADRS, led directly to the issuance by the Commission of an Order of Investigation against a number of entities, as well as injunctive action against some. The Office worked with staff members from all bureaus to make technological advances, including work on the automated form FMC-18.

Office staff participated in the formation of plans of actions and milestones on several areas of importance to agency strategic planning. In particular, the Office was heavily involved in the development of an agency outreach strategy which will improve communications with regulated entities, raise awareness of the FMC, and build relationships with other government agencies. As well, the Office contributed significantly to the development and implementation of a plan to address human resources issues, including the need for succession planning and enhanced performance management. The Office participated in review of business processes and statutory authorities in light of possible future strategic needs.

The Office of Operation's key objectives for fiscal years 2007 and 2008 include instituting the Chairman's policy directions aimed at refining and enhancing agency programs and operations, as well as monitoring the accomplishment of agency performance goals. In particular, the Office will continue to concentrate on increasing agency outreach and raising public awareness of agency regulations and services. The Office also will focus on reviewing agency policies and regulations to ensure alignment between the FMC and the industry and on automating certain processes. Finally, the Office will continue to refine cooperation and integration of the three agency bureaus.

Bureau of Trade Analysis

The Bureau of Trade Analysis plans, develops, and administers Commission programs for the following activities: (1) monitoring general trade conditions and economic developments in liner shipping; (2) overseeing individual and concerted carrier and MTO activity; (3) developing economic studies and analyses in support of the Commission's regulatory

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

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

Agreement Program Activities

The focus of the Bureau's agreement program is to analyze what impact a carrier or terminal agreement will have on competition, in particular whether it is likely that the agreement will result in an unreasonable increase in transportation cost or decrease in service.

During fiscal year 2006, the Bureau received 256 carrier agreement filings and 28 terminal agreement filings. The Bureau reviewed, evaluated and processed 265 carrier agreement filings, which include 10 pending from fiscal year 2005, and 27 terminal agreement filings.

Operational agreements, those involving the sharing of vessel space, continued to be the predominant type of agreement filed. These agreements accounted for over 45 percent of the filings. Price-fixing agreements, i.e., freight conferences, continued to decline last year to about 7.5 percent of filings. Most of the conference filings involved membership changes, that is, carriers joining or dropping out of those agreements. Some years ago, when conferences were the dominant pricing forum, their filings accounted for as much as 27 percent of yearly filings. Additionally, the number of marine terminal agreements filed continued to fall with 18

filings. The reason for this is that terminal operators are taking advantage of the filing exemption for terminal leases.

The Bureau also receives and reviews minutes of meetings and reports filed by various agreement parties.

Certain revised agreement regulations that were enacted last fiscal year allow for expedited implementation of specific types of agreements and lessen the burden on the industry. An exemption from the 45-day waiting period was established to allow low market share agreements without pricing or capacity rationalization to become effective upon filing. In fiscal year 2005, about ten percent of agreements filed qualified for the low market share exemption. In fiscal year 2006, the percentage of qualifying filings more than doubled.

During the year, the Bureau analyzed a number of significant agreement filings. Brief synopses of some of those follow:

Hamburg Süd and FESCO Ocean Management filed a cooperative working agreement containing non-compete provisions relating to Hamburg-Süd's acquisition of FESCO's services and vessels in the Australia/New Zealand market. The Commission required parties to provide further information concerning their agreement and, after reviewing the parties' responses, allowed the agreement to become effective.

The member lines of the Caribbean Shipowners Association and the Florida Bahamas Shipowners and Operators Association filed a cooperative working agreement (the Florida Shipowners Group Agreement) under which the members of the two associations agree to form a separate entity that would handle the administrative matters of their respective agreements. In connection with the joint agreement, both underlying agreements were amended authorizing them to hire and use the services of the entity established under the Florida Shipowners Group Agreement.

The member lines of the New World Alliance filed a new agreement that consolidated services that were covered under three separate agreements. After determining that the new arrangement did not alter the parties' operational relationships and would not likely result in a significant reduction in competition or in an unreasonable increase in transportation costs to shippers, the Commission allowed the consolidated agreement to become effective.

Ocean common carriers participating in the Ocean Carrier Equipment Management Association filed an agreement to give them authority to establish chassis pools at ports, marine terminals, and inland locations in cases where ports, marine terminals, railroads, and/or other entities are unable or unwilling to do so. The agreement authorizes the parties to meet, discuss, exchange information and data, negotiate, and agree upon matters related to the establishment, operation, and use of chassis pools.

The ports of Los Angeles and Long Beach filed a marine terminal discussion agreement to facilitate implementation of their Clean Air Action Plan, which they developed in cooperation with U.S., state, and local government agencies and other stakeholders. The agreement gives

the two ports authority to discuss and agree on rates, charges, operating costs, practices, legislation, regulations, and terminal operations regarding matters for the funding, establishment, and construction of port-related infrastructure projects and environmental programs.

The Bureau maintains an Agreements database and library containing up-to-date information pertaining to, and copies of, effective agreements. In fiscal year 2006, the Bureau, in conjunction with the Office of the Secretary and the Office of Information Technology, completed the programming and established links to provide the public with direct access to the Bureau's agreement library through the agency's website. In fiscal years 2007 and 2008, the Bureau expects to further enhance public access to agreements as well as develop and implement the technology and procedures for the electronic filing of agreements.

Economic Analysis Program Activities

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

In fiscal year 2006, the Bureau produced a variety of reports and analyses. These included (1) a *Trade Profile* on the U.S.-Oceania trade evaluating liner cargo growth, top trading partners, top commodities and major shippers of imported goods, liner services and vessel capacity, and the market structure and revenues of carriers in rate agreements; (2) two *Trade Outlook* reports providing a comprehensive economic analysis of selected U.S. liner trades, which focused on the market structure, conduct, and performance of carriers and carrier agreements operating in the trades; (3) two competitive impact studies of selected carrier agreements presently in effect, assessing the reasonableness of the parties' collective activities pursuant to the statutes governing agreements under the Shipping Act; (4) a detailed study of service contract rate levels assessing the pricing policies of state-owned (controlled) carriers operating in the U.S. liner trades pursuant to the standards in section 9 of the Shipping Act; (5) an analysis of possible new forms of carrier agreements developing in the U.S. liner trades and proposals for

Commission oversight of such agreements; and (6) a study of methods for using data from the Automated Commercial Environment/International Trade Data System (“ACE/ITDS”) and the SERVCON system to enhance the monitoring of carriers in rate agreements, and assess the impact of their service contracting and pricing practices in the U.S. liner trades.

Other Bureau projects and initiatives completed or begun in fiscal year 2006 included: (1) economic analyses of filed agreements and agreement modifications pursuant to the standards of the Shipping Act; (2) monitoring the operations and impact of the PierPASS program at the Ports of Los Angeles/Long Beach implemented under the West Coast MTO Discussion Agreement; (3) a study of service contract terms and conditions based on a statistical random sample taken from the FMC’s SERVCON database; (4) quarterly controlled carrier reports; (5) continued efforts to correct compliance issues and problems with the monitoring reports and minutes of agreement meetings filed by parties to agreements subject to the Commission’s reporting regulations; (6) responses to applications for waiver from the Commission’s reporting regulations for agreements; (7) a carrier profile program to maintain current information on the top carriers operating in the U.S. liner trades; (8) creating and maintaining an interactive website on the Commission’s intranet with Bureau information and data on carrier agreements and conditions in the U.S. liner trades; (9) assisting in the development of a module within the SERVCON system that profiles selected service contracts for analysis; (10) developing and implementing a database and intranet interface to contain and access commercial trade data purchased by the Commission (PIERS); (11) preparing data and information for, and participation in, meetings with foreign government officials on maritime-related matters; (12) providing information from the Commission’s Regulated Persons Index to respond to a survey request from the Program Support Group of the ACE/ITDS project; (13) assisting with speeches and preparing trade and agreement information for official speaking engagements of Commission staff members; and (14) responses to requests, inquiries, and informal complaints on carrier agreements and related agreement trade matters.

During the fiscal year, the Bureau received 886 sets of minutes and 164 monitoring reports containing market share, cargo volumes, revenue, and service data for agreement parties, including capacity and capacity utilization data for certain types of agreements. Monitoring reports are filed quarterly by the potentially more anticompetitive agreements, such as conference agreements and agreements with rate and/or capacity rationalization authority. The Bureau reviews these reports for filing compliance and uses the data to support its monitoring activities. In addition, in fiscal year 2006, 16 applications for waivers to the minutes and/or monitoring report filing requirements were reviewed and processed.

In fiscal years 2007 and 2008, the Bureau will continue to monitor agreement activities and trade conditions, to prepare reports and economic analyses on developments and issues in key U.S. trades, to report on the activities of controlled carriers, and to respond to inquiries and informal complaints. The Bureau also will focus on: (1) conducting research in support of the statutory standards and the requirements of relevant Commission regulations overseen by this Bureau, as well as other Bureaus and Offices in the agency; (2) assessing the impact and effectiveness of the regulations governing agreements in 46 CFR part 535, implemented by the Commission in FMC Docket No. 03-15, *Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984*; (3) linking the new PIERS data

system to the enhanced Agreements database to facilitate production of the Bureau's regular trade monitoring publications and other trade analysis reports; and (4) further enhancing the Agreements database to accept and store electronic versions of agreements' minutes and monitoring reports and to make those documents accessible and searchable via the Bureau's intranet. In addition, the Bureau will continue to assist the Commission's investigative and enforcement initiatives, and oversee international trade issues, such as unfair foreign shipping practices. As a Commission representative, the Bureau will continue to participate in development of ACE/ITDS. As a Participating Government Agency ("PGA"), the Commission is working with the "e-Customs Partnership" and a host of other Federal agencies on developing the ACE/ITDS. The Bureau also will participate in the Maritime Data Working Group and the Interagency Action Team for the National Committee on the Marine Transportation System dealing with data collection and information management issues.

Service Contracts Program Activities

The Shipping Act allows ocean common carriers, either individually or through agreements, to negotiate and execute service contracts with one or more shippers or shippers' associations. Under service contracts, shippers make a commitment to provide a certain volume or portion of cargo over a fixed period of time and carriers commit to a specified rate and a defined service level. These contracts are filed confidentially with the Commission.

Contract flexibility enables carriers to tailor their transportation services to the specific commercial and operational needs of shippers. Overall, service contracts continue to be the predominant pricing mechanism due primarily to their efficiency, flexibility, and confidentiality.

The Bureau continues to improve its Internet-based system for the filing of service contracts (SERVCON) to meet the needs of the agency as well as the shipping industry. In fiscal year 2006, the Bureau upgraded SERVCON to streamline the filing of service contracts and NSAs. In addition, the Bureau implemented major performance enhancements to provide faster retrieval and better screen displays, and updated the underlying architecture.

During fiscal year 2006, the Bureau received approximately 46,682 service contracts and 252,566 contract amendments. There were three requests to correct clerical errors in service contracts. In fiscal years 2007 and 2008, the Bureau will assess and evaluate the efficiency of the SERVCON system. Also, the Bureau intends to implement an electronic registration procedure for carriers/OTIs filing service contracts and NSAs.

NVOCC Service Arrangement Program Activities

In January 2005, the Commission permitted NVOCCs to enter into NSAs with their shipper customers. During fiscal year 2006, 557 original NSAs and 448 amendments were filed by 59 NVOCCs. Since NSAs were first allowed, more than 424 NVOCCs have registered to file NSAs. Of those registered, 71 have filed NSAs. The Bureau initiated an audit to examine the general characteristics of NSA filings and to identify distinctions between NSAs and carrier service contracts.

Tariff Program Activities

The Shipping Act requires carriers and conferences to publish their tariffs electronically. Tariffs are to be made available, typically through Internet access, to any person, without time, quantity, or other limitation. Carriers are permitted under law to charge a reasonable fee for providing public access to their tariffs. The Bureau reviews and monitors the accessibility and accuracy of these private systems, and reviews published tariff material for compliance with the Shipping Act's requirements.

The Bureau evaluates applications for special permission to deviate from tariff publishing rules and regulations. During fiscal year 2006, the Bureau received and processed 13 special permission applications. The majority of the applications sought to advance the effective date of various tariff provisions that require a 30-day notice period.

Unlike carriers, MTOs have the option of publishing or not publishing schedules of their rates, regulations, and practices, including limitations of liability for cargo loss or damage. Last year, 171 MTOs made their schedules available to the public.

The Bureau also monitors the tariff activity and the service contracts of controlled carriers. Under the Shipping Act, no controlled carrier (that is, a carrier whose majority ownership is held by a foreign government) maintain rates or charges in its tariffs or service contracts that are below a level that is just and reasonable, or establish or maintain unjust or unreasonable classifications, rules, or regulations in those tariffs or service contracts. In addition to monitoring the activities of known controlled carriers, the Bureau reviews trade publications to identify carriers that might be controlled by a foreign government. During fiscal year 2006, the Bureau produced a detailed study of service contract rate levels assessing the pricing policies of state-owned (controlled) carriers operating in the U.S. liner trades pursuant to the standards in section 9 of the Shipping Act.

The Bureau also collects and processes information provided by carriers, MTOs, and OTIs concerning, among other things, the Internet location of their tariffs and schedules. These Internet locations are made available to the shipping public via the Commission's website. Last year, the Bureau posted on the agency's website 3,942 active/current tariff/schedule Internet addresses. Also, the Bureau listed 1,902 inactive/cancelled addresses.

Formal Proceedings

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

In fiscal year 2006, the Bureau participated in the following matters: (1) drafting a report with recommendations on revising regulations governing the financial responsibility of passenger

vessel operators in Docket No. 02-15, *Passenger Vessel Financial Responsibility*; (2) developing recommendations for a rulemaking that sets forth specific criteria for determining the status of ocean common carriers; (3) conducting semi-annual meetings with agreement representatives pursuant to the settlement terms of Fact Finding Investigation No. 25, *Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season*; and (4) providing economic assistance in Docket No. 04-10, *Agreement No. 201158, Docking and Lease Agreement by and Between City of Portland, Maine and Scotia Prince Cruises Limited*.

The Bureau's support of formal proceedings during fiscal years 2007 and 2008 will depend on the number and subject matter of the proceedings initiated over the period. The Bureau will assist the Commission's continuing efforts to address unfair foreign shipping practices under the FSPA and the 1920 Act.

Bureau of Certification and Licensing

The Bureau of Certification and Licensing ("BCL") licenses U.S.-based OTIs, including ocean freight forwarders and NVOCCs; issues certificates to owners and operators of passenger vessels that have evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages or for death or injury to passengers and other persons; and manages programs assuring financial responsibility of OTIs and PVOs by developing policies and guidelines and analyzing financial documents.

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

Licensing of Ocean Transportation Intermediaries

During fiscal year 2006, the Commission received 420 new and 227 amended OTI applications. During this period, BCL issued 343 new and 169 amended OTI licenses and permanently revoked 278 licenses. BCL also approved 39 other actions such as replacement qualifying individuals. An additional 63 non-U.S. based unlicensed NVOCCs' bonds were cancelled. During fiscal year 2006, the Commission received 11 riders providing optional proof of financial responsibility for carriers serving in the U.S. - China trade for a total of 49 riders. Docket No. 04-02, *Optional Rider for Proof of Financial Responsibility*, implemented rules that permit U.S. NVOCCs to file riders to their existing NVOCC bonds to meet financial responsibility requirements of the Chinese government.

During fiscal year 2006, BCL staff continued to work with other Commission components to examine the Commission's rules, policies and procedures regarding OTIs. Areas of focus included review of the requirements for OTI license applicants, streamlining the application process, posting timely and easier-to-locate information about OTIs on the Commission's

website, and initiating a review of requirements to support electronic filing of OTI bond information.

BCL continues to experience a backlog of cases in excess of the target 30 days for processing from receipt of application to licensing determination. Much of the delay occurs because data provided with the initial submission is incomplete. This requires BCL to contact the applicant and request the necessary information before making a determination to issue a license or recommend approval of the requested modifications. BCL continues to assist OTI applicants, seeking to promote accurate and complete submissions and to process such applications within 30-45 days of receipt.

In fiscal year 2006, BCL made significant progress in the development of an automated Form FMC-18, *Application for an Ocean Transportation Intermediary License*. Testing of an automated FMC-18 filing system is being conducted internally by BCL prior to release. In fiscal year 2007, BCL will propose the implementation of a system to allow for the electronic submission of Form FMC-18. Electronic submission will facilitate completeness of the application and will contribute to a speedier licensing review process. The next phase of the system will permit paperless OTI license processing and a later phase will integrate the OTI license database with other Commission databases. Database integration will reduce redundancies for those who interact with the Commission through various means such as the FMC-1 and FMC-18 application.

Also, in fiscal year 2007, BCL will continue its outreach programs and promote awareness of OTI requirements. This program is envisioned to improve compliance by VOCCs and OTIs with the Shipping Act and to reduce the number of transportation users harmed by unlawful operators.

Certification of Passenger Vessel Operators

The Commission administers 46 U.S.C. § 44102 and 46 U.S.C. § 44103, which require evidence of financial responsibility for vessels which have berth or stateroom accommodations for 50 or more passengers and embark passengers at U.S. ports and territories. During fiscal year 2006, the Commission received applications for 50 certificates (casualty and performance), while 24 casualty certificates and 29 performance certificates were approved and issued. Currently 197 vessels and 47 operators have evidence of financial responsibility coverage in excess of \$339 million for nonperformance and over \$666 million for casualty on file with the Commission. The certificates issued pursuant to this program are necessary for the U.S. Customs clearance of thousands of passenger vessel sailings annually. In addition to reviewing applications and issuing certificates, the Office of Passenger Vessels and Information Processing offers information and guidance to the cruising public throughout the year on their rights and obligations regarding monies they paid to cruise lines which are experiencing financial difficulties and nonperformance problems.

The cruise industry continues to grow as we enter a new era characterized by innovative, feature-full ships, international ports-of-call and convenient embarkation cities. The volume of passengers reached an all-time high of nearly 11 million passengers during fiscal year 2006.

New cruise operators continue to enter the industry, and existing cruise lines continue to build or purchase additional vessels. The annual delivery of vessels has decreased due to their dramatically increased size and the acquisition of niche market cruise lines, which constantly changes the industry's environment. Further, cruise lines are continuously developing new and creative ways of establishing their required financial responsibility.

During fiscal year 2006, Glacier Bay Cruise Lines, CQ Rivers Cruises LLC d/b/a Great American Journeys, and Delphin Cruises ceased operation or left the trade. The Ambassadors Cruise Group acquired the vessels of American West Steamboat Co. and Delta Queen Steamboat Company and subsequently formed the Majestic American River Line.

During fiscal year 2006, BCL commenced an On-Site Monitoring Program that evaluates PVO financial responsibility under 46 U.S.C. § 44103. The on-site review program is responsive to Congressional concern for the practices of passenger vessel operators generally with respect to protecting passengers' advance deposits for transportation. The Bureau's PVO monitoring program ensures that operators provide accurate and timely information required to be submitted and that evidence of adequate financial coverage has been provided.

In fiscal years 2007 and 2008, BCL will continue to evaluate the agency's PVO program to address the current needs of the cruising public. During fiscal year 2007, BCL will review the effectiveness of PVO monitoring procedures previously implemented; make appropriate corrections in staff procedures and monitoring schedules; and follow up to ensure that new procedures are timely implemented. In fiscal year 2008, BCL will initiate a rulemaking with respect to the Commission's statutory obligation to the passenger vessel financial responsibility program administered under 46 U.S.C. § 44102 and 46 U.S.C. § 44103.

Automated Database Systems

In conjunction with the Office of Information Technology ("OIT"), BCL has initiated a new project to modernize the Regulated Persons Index. A primary function of BCL is the maintenance of up-to-date records of licensed OTIs. BCL posts on the Commission's website a list of OTIs which are licensed, bonded and have provided their tariff location, if required, so that carriers and others can ascertain whether an OTI has met FMC requirements. The OTI list also indicates whether an NVOCC has filed an optional rider for additional proof of NVOCC financial responsibility.

During fiscal years 2007 and 2008, BCL will continue its implementation of an electronic Form FMC-18 and systems integration among Commission databases, and will lead the effort to achieve the agency's performance goals related to improving the program for updating OTI data. In conjunction with the OIT, BCL intends to develop a plan to automate the FMC Form 131, the PVO Application form, and to conduct corresponding requirements analysis to facilitate the filing and review of PVO applications. During fiscal year 2007, BCL also proposes to commence development work to support electronic filing of OTI bonds. In fiscal year 2008, BCL will work with OIT to initiate a redesign of the OTI list maintained on the Commission's website to increase accessibility to information, to facilitate public search capability, and to make it more interactive for users.

Operations Program Bureau of Certification and Licensing Statistical Workload Summary										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	*On Hand 09/30/05	Receipts	Output	*On Hand 09/30/06	Receipts	Outputs	*On Hand 09/30/07	Receipts	Outputs	*On Hand 09/30/08
OTI Applications New	234	420	343	311	500	550	261	500	550	211
OTI Applications Amended	103	227	169	161	300	325	136	300	325	111
OTI License Terminations (1)	0	278	278	0	250	250	0	250	250	0
Passenger Vessel Applications (Performance)	5	26	29	2	30	30	2	30	30	2
Passenger Vessel Applications (Casualty)	11	24	24	11	30	30	11	30	30	11
(1) Revoked or surrendered licenses not subsequently re-issued.										
* This number primarily includes incomplete applications awaiting further information from applicants and completed applications pending applicants' procurement of a bond. The number will grow as more applications are approved. Under current regulations, applicants are permitted up to two years after approval to provide a bond prior to licensing.										

Enforcement Program

The Bureau of Enforcement has primary responsibility for ensuring compliance with the shipping statutes administered by the Commission, principally the Shipping Act of 1984. The Bureau is actively involved in the Commission's outreach activities and liaisons regularly with all segments of the ocean transportation industry. The Bureau is also active in maritime security and works closely with the agency's BCL to promote prompt licensing of all qualified OTIs, and with the Department of Homeland Security's CBP to ensure submission of complete and accurate shipping data. Bureau attorneys also serve as legal advisors to the Director of the Office of Operations and to other bureaus and offices, and may be designated as Investigative Officers in nonadjudicatory fact finding proceedings. Additionally, Bureau attorneys work closely with the Commission's investigatory personnel and participate as trial counsel in formal adjudicatory proceedings. The Bureau monitors all other formal proceedings, including relevant court proceedings, in order to identify major regulatory issues and to advise the Director of Operations and the other bureaus and offices. The Bureau also participates with other bureaus and offices in committees and task forces in the development of Commission policies, rules, and regulations. The Bureau also participates in formal complaint proceedings where appropriate.

In liaison with investigative personnel, the Bureau monitors and conducts investigations into the activities of ocean common carriers, OTIs (NVOCCs and freight forwarders), shippers, ports and terminals, and other persons to ensure compliance with the statutes and regulations administered by the Commission, thereby providing maximum protection to all participants in the ocean transportation shipping industry. Monitoring activities include: (1) service contract and NSA reviews to determine compliance with applicable statutes and regulations; (2) reviews and audits of ocean common carrier and OTI operations, including compliance with bonding requirements and post-licensing and routine compliance checks of licensees to determine whether operations conform with regulatory requirements; (3) audits of PVOs to ensure the financial protection of cruise passengers; and (4) various studies and surveys to support Commission programs. Investigations are conducted into alleged violations of the full range of statutes and regulations administered by the Commission, including: illegal rebating, misdescriptions or misdeclarations of cargo, illegal or unfiled agreements, abuses of antitrust immunity, unlicensed OTI activity, including service to noncompliant OTIs by ocean common carriers and licensed OTIs, untariffed cargo carriage, unbonded passenger vessel operations, unlawful MTO activity and various types of consumer abuses, such as failure of carriers or intermediaries to carry out transportation obligations, resulting in cargo delays and financial losses for shippers. Through these activities, the Bureau's efforts support the agency's objectives of obtaining statutory compliance, ensuring equitable trading conditions, and focusing enforcement efforts on activities having market-distorting effects affecting the shipping public.

The Bureau of Enforcement prepares and serves notices of violations of the shipping statutes and Commission regulations and may compromise and settle civil penalty demands arising out of those violations. Bureau attorneys represent the Commission in formal Commission proceedings that may result in the assessment of civil penalties. The Bureau also participates, in conjunction with other bureaus, in special enforcement initiatives, fact finding investigations, ADR processes, rulemaking efforts and in homeland security issues.

During fiscal year 2006, the Bureau worked to obtain statutory compliance in all major trades and with all segments of the transportation industry, i.e., carriers, carrier agreements, MTOs, PVOs, and OTIs. The Bureau also initiated actions to address market-distorting activities such as rebates and absorptions, misdescriptions of commodities and misdeclarations of measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded NVOCCs and joint carrier activities outside the authority of agreements or pursuant to unfiled agreements. Emphasis was placed on industry service contracting activities to ensure fair trading conditions and protection of the public. Most of these investigations resulted in compromise settlements of civil penalties or were treated as compliance matters and closed without action. However, certain investigations of NVOCCs and ocean common carriers have required the institution of formal adjudicatory proceedings in order to pursue remedies under the 1984 Act.

In fiscal year 2006, the compliance audit program continued. This program, conducted from headquarters primarily by mail, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also includes review of entities holding themselves out as VOCCs with no indication of vessel operations. At the beginning of fiscal year 2006, 9 audits were pending. During the fiscal year, 53 audits were commenced, 60 audits were completed and 2 were pending in the Bureau on September 30, 2006.

At the beginning of fiscal year 2006, 27 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 4 formal proceedings, and there were 71 matters pending which the Bureau was monitoring or for which it was providing legal advice. During the fiscal year, 21 new enforcement actions were commenced; 14 were compromised and settled, administratively closed, or referred for formal proceedings; and 34 enforcement cases were pending resolution at fiscal year's end. Also, 3 formal proceedings were completed, and 5 were pending at the end of the fiscal year. Additionally, 53 matters involving monitoring or legal advice were received during the fiscal year, 57 such matters were completed, and 67 were pending in the Bureau on September 30, 2006.

In fiscal years 2007 and 2008, the Bureau will continue to pursue market-distorting, fraudulent and anticompetitive practices harmful to the industry and the public and will continue to monitor the U.S. trades and the implementation of the changes and regulations resulting from OSRA, to the extent that resources permit. The Bureau will continue to pursue initiatives aimed at VOCCs engaged in unfair service contracting practices, particularly those which permit improper entities to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws, and will expand the OTI monitoring and audit programs. An ongoing initiative is focusing on the unlawful operations of household goods carriers -- both licensed and unlicensed -- which have increasingly resulted in economic harm to individual consumers, as well as competitive injury to carriers operating lawfully. Public outreach efforts will continue to educate the shipping public with regard to FMC statutes and regulations. The program will seek to improve participation in maritime security issues, specifically efforts to coordinate the use of available database systems with other agencies or government groups engaged in homeland security in order to improve identification of entities providing and utilizing maritime transportation services.

Operations Program Enforcement Program										
Statistical Workload Summary										
Workload Units	Fiscal 2006 Actual			Fiscal 2007 Estimate			Fiscal 2008 Estimate			
	*On Hand 09/30/05	Receipts	Output	*On Hand 09/30/06	Receipts	Outputs	*On Hand 09/30/07	Receipts	Outputs	*On Hand 09/30/08
Audits and Monitoring Activities*	9	53	60	2	55	55	2	55	55	2
OTI Applicant and License Checks	0	556	556	0	584	584	0	612	612	0
Formal Proceedings	4	4	3	5	6	6	5	7	7	5
Civil Penalty Cases	27	21	14	34	25	25	34	30	30	34
Staff Legal Advice	71	53	57	67	60	65	62	60	65	57
* Category of Investigations changed to Audits and Monitoring Activities. Audits and monitoring activity seperated from investigations. Investigations are included in other categories in the Statistical Workload Summary.										

Administration Program

Linking Program Funding to Strategic/Performance Goals

The Office of Administration primarily supports our strategic goals of Technological Efficiencies and Management Capabilities. Three performance goals in fiscal year 2008 are particularly important to the Administration program. In the Information Technology area, the Commission intends to upgrade its network and desktop operating systems. Appropriate funding will enable us to accomplish this objective so that we enhance the security of our network, reduce network administration costs and burdens, and keep in step with industry best practices. Also, we are requesting funding to fast track implementation of electronic record keeping of employee records, in keeping with Federal government e-initiatives, which will address paperwork and storage issues while improving accuracy and enhancing data collection and retention. Additionally, we plan to implement Pay.gov. Providing for the option to receive electronic payments from the industry will reduce paperwork, expand alternatives for industry compliance, and also achieve greater conformance with Federal government e-initiatives.

Office of Administration

Office of the Director

The Office of Administration (“OA”) provides administrative support to the program operations of the Commission. The OA interprets governmental policies and programs and administers these in a manner consistent with Federal guidelines, including those involving procurement, information technology, financial management and human resources. The OA initiates recommendations, collaborating with other elements of the Commission as warranted, for long-range plans, new or revised policies and standards, and rules and regulations, with respect to its program activities. The Director, OA, is responsible for the direct administration and coordination of the:

- Office of Financial Management
- Office of Human Resources
- Office of Information Technology
- Office of Management Services

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

The Director, OA, provides administrative guidance to the Offices of the Chairman, Commissioners, Secretary, General Counsel, Administrative Law Judges and Operations, and administrative assistance to the Offices of the Inspector General and Equal Employment Opportunity. The Director is the FMC's Chief Acquisition Officer, Audit Follow-up and Management (Internal) Controls Official, and Forms Control Officer. The Director also represents the FMC as Principal Management Official on the Small Agency Council. As the Chief Financial Officer, the Director provides program oversight for the agency's budget and

financial management responsibilities, and ensures agency compliance with the Financial Integrity Act, the Antideficiency Act, and the Debt Collection Improvement Act of 1996. The Director also serves as the agency's lead executive for strategic planning and implementation of the Government Performance and Results Act of 1993 ("GPRA"). OA staff act as the point of contact for the Small Business Administration's E-forms initiative.

The Deputy Director of Administration is the FMC's Chief Information Officer ("CIO"). The CIO oversees the Office of Information Technology operations and activities administered under the Clinger-Cohen Act of 1996, as well as other applicable laws which prescribe responsibility for operating the program. As the FMC's Competition Advocate, the Deputy Director challenges barriers to competition, reviews procurement practices, and reports to the Chairman as required. The Deputy Director also serves as Records Management Officer.

The Office of the Director had significant programmatic achievements during fiscal year 2006. The Office guided the agency's continuing efforts to enhance its information technology program; during the fiscal year the agency mitigated two material weaknesses and addressed the final outstanding recommendations made by the Inspector General through a contractor assessment of agency IT operations. The agency received an unqualified opinion in its fiscal year 2006 financial statement audit. The Office again directed preparation of the Annual Performance Plan and the Annual Program Performance Report, as required by GPRA. The Office also prepared the Federal Activities Inventory Reform Act report, the Performance and Accountability Report (which included the Management's Discussion and Analysis) the Federal Managers Financial Integrity Act report, and transmittal letters for the Inspector General's semi-annual reports to Congress. Also, the Office prepared the Agency Regulatory Plan and Semi-annual Unified Agendas, the SBPRA Implementation Plan, and the Final Regulatory Enforcement Act Report for FY 2005 to Congress. The Office also coordinated completion of the agency's 44th Annual Report. Also during the fiscal year, the Office directed the update of the internal Commission issuances that specify procedures for a variety of programs and activities, and guided Commission efforts to comply with GPEA and FISMA. Additionally, the Office guided the development of the fiscal year 2008 budget request to OMB and the fiscal year 2007 President's Budget submission, and directed all efforts involving the audit of the Commission's fiscal year 2006 financial statements. Also during the year, the Office provided primary support for the OMB clearance and record management programs. Further, the Office guided the further development of the agency's Continuity of Operations Plan. Also, the Office directed the effort to update and refine the agency's performance evaluation system, coordinated the agency's development of a pilot Individual Development Plan program, and coordinated a series of in-house functional briefings.

The OA's key objectives for fiscal years 2007 and 2008 are continuing to implement the Chairman's policy directions aimed at refining and enhancing agency administrative programs and operations; monitoring the accomplishment of agency performance goals, particularly those related to the agency's refinement of its performance management system and implementation of Pay.gov; initiating further information technology improvements, including the replacement, integration or update of agency database systems and the upgrading of network and desktop operating systems; and working with senior managers to ensure effective strategic succession planning, including providing key support for the agency's new Emerging Leaders Program.

The Office also will take the lead in assuring that the agency-wide computer security program is effective, that the agency's financial management system receives an unqualified opinion in annual financial audits, and that the agency complies fully with the HSPD-12 initiative.

Office of Financial Management ("OFM")

OFM administers the Commission's financial management program and is responsible for offering guidance on optimal utilization of the Commission's fiscal resources. The OFM is charged with interpreting government budgetary and financial policies and programs, and developing annual budget justifications for submission to the Congress and OMB. The Office also administers internal control systems for agency funds, travel, and cash management.

OFM's main responsibilities are to: (1) produce and submit annual budget justifications and estimates to OMB and the Congress; (2) execute the budget to ensure that appropriated funds are properly expended; (3) prepare audited financial reports to aid management decisions; (4) administer the control system over workyears of employment; (5) collect all fees and forfeitures due the Commission; (6) process payments to appropriate vendors in the correct amount efficiently and in accordance with the Prompt Payment Act and Debt Collection Improvement Act; (7) verify all financial, accounting and payroll reports generated by the agency's fiscal services agents; (8) process travel orders and vouchers within established time limits and in accordance with Federal Travel Regulations; (9) administer and manage the Commission's Travel Charge Card program; and (10) manage the Commission's Cash Management program.

The Commission has an interagency agreement ("IAG") with the Bureau of Public Debt ("BPD") to provide such services as general ledger accounting; travel; procurement; and financial reporting, e.g., preparing the Commission's annual financial statements. OFM serves as the Commission's primary contact with BPD and verifies all accounting transactions. OFM works with BPD to ensure the timely submission of quarterly financial statements to OMB. Additionally, OFM works with BPD to ensure that an unqualified opinion is received on the annual financial statement audit. The National Finance Center ("NFC") provides the Commission with payroll services via an IAG. OFM serves as the primary contact with NFC regarding time card transmission and verifies all payroll disbursement costs. NFC transmits documentation of payroll costs directly to BPD for inclusion in the agency's accounting records.

During fiscal year 2006, the OFM: (1) collected and deposited to the U.S. Treasury \$1,595,530 from user fees, fines and penalty collections, and OTI application and PVO certification fees; (2) coordinated and prepared budget justifications and estimates for the fiscal year 2007 Congressional budget and fiscal year 2008 OMB budget; (3) prepared a variety of external reports such as: the Annual Leave Year Report for 2005 (Office of Personnel Management "OPM"), the Report on Workyears and Personnel Costs for 2005 (OPM), the Report on International Travel for fiscal year 2005 (OMB), the Report on First Class Airline Accommodations for fiscal year 2005 (GSA), and monthly reports of Full-time Equivalent/Workyear Civilian Employment (OPM); (4) prepared monthly status reports on workyears, funding, travel, and receivables; (5) managed the Commission's cash management programs; (6) updated Commission orders and internal office procedures which deal with financial

management issues; (7) developed a process for the individual offices/bureaus to forecast the cost of annual goals in accordance with the Commission's strategic goals; (8) prepared monthly allocation reports to provide management with meaningful, timely expense data by program; (9) worked with BPD staff and auditors regarding the Audit of the Fiscal Year 2005 Financial Statements (resulting in an unqualified opinion); (10) pursued delinquent receivables and referred debts to the Department of Treasury for collection; (11) worked with the Director of Administration to finalize and produce the Commission's 2005 Management's Discussion and Analysis and the Commission's 2005 Performance and Accountability Report and to initiate work on the 2006 versions of each; (12) conducted research on the implementation of electronic commerce to automate the processing of purchase orders, obligations, receipts and payments through Pay.gov; and (13) migrated to an updated platform for Paperless Check Conversion through Federal Reserve Bank in Cleveland.

Goals in fiscal years 2007 and 2008 include: (1) continuing development of a fully integrated financial management system; (2) facilitating the implementation of Pay.gov for agencywide and industry acceptance of electronic payments; (3) reviewing and updating procedures and controls for current business processes, as necessary; (4) migration to an updated version of StarWeb for processing of time and attendance through the NFC; and (5) pursuing initiatives leading to economy and efficiency in budget and financial operations.

Office of Human Resources ("OHR")

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

Major accomplishments during fiscal year 2006 include the following: (1) monitored activities of the agency's payroll/personnel service provider, NFC, and worked with OFM on security issues for conversion to a web-based time-and-attendance reporting system; (2) worked with senior management to recruit and staff certain employee development programs and activities to address executive succession, for example, the SES Candidate Development Program and the Emerging Leaders Program; (3) conducted a comprehensive performance management and incentive awards program and continued working with senior management to assess the performance appraisal system and recommend changes to simplify and streamline the program; (4) conducted a comprehensive training program in accordance with the agency's budget and strategic and performance plans, including drafting agency policy on training and employee development, providing executive training for SES candidates, promoting e-learning and on-line training opportunities, continuing the college tuition reimbursement program, ensuring training for new employees on the No FEAR Act, and participating in the Small Agency Council "(SAC") Training Program; (5) conducted a comprehensive recruitment program, utilizing flexibilities and recruitment alternatives to staff critical positions, and reinitiated student/leadership programs (e.g., the Student Temporary Employment and Presidential Management Fellows Programs); (6) coordinated with OPM, OMB and pertinent partners on a variety of human capital initiatives related to accomplishment of action items pursuant to the

President's Management Agenda; (7) promoted the Preventive Health and Awareness Program, hosted bi-monthly wellness workshops, and issued email notices focusing on preventive health themes and related health issues, e.g., Employee Assistance and Federal Occupational Health programs; (8) conducted a proactive retirement program including counseling, computing benefits, providing retirement seminars and related training, and processing all retirements; (9) managed and conducted numerous employee benefit and charitable contributions programs and Open Seasons, such as the Combined Federal Campaign, Long-Term Care Insurance Program, Flexible Spending Accounts, etc.; (10) conducted a cyclical position management program review to maintain balanced organizational structures and ensure positions remained current and accurately classified; (11) conducted a comprehensive personnel and information security program, including initiating and adjudicating security investigations for new and reinvestigated employees, completing work necessary for reporting and updating data in the Clearance Verification System pursuant to the e-clearance initiative, and collaborating with the CBP to gain access to the ACE/ITDS; (12) oversaw preparation for implementation of the Enterprise Human Resources Integration project, and administered other e-Gov initiatives such as Recruitment One-Stop, e-payroll, e-clearances, and e-learning; joined small agency consortium for discounted funding and collaborated with OPM and Integic officials involved in the Fast-Track implementation of e-OPF (Official Personnel Folder); (13) coordinated with OPM in administering a number of agency-wide surveys, including the 2006 Federal Human Capital Survey, and worked with senior management to identify areas needing improvement; and (14) implemented provisions of the Federal Workforce Flexibility Act and related legislation.

In fiscal years 2007 and 2008, the Office plans to: (1) advise agency management and staff on all human resources matters and ensure the maintenance of a sound and progressive human resources program; (2) implement pertinent portions of the agency's strategic, training, and related performance plans, particularly performance goals related to the management of human resources; (3) explore and implement simplification, flexibility, and accountability of human resources management programs; (4) continue to investigate appropriate automated solutions and other flexibilities to address program requirements and meet agency business needs; (5) in conjunction with administrative components and the GSA, continue to implement pertinent provisions of HSPD-12 related to common identification standards for Federal employees; and (6) monitor processes and database modernization activities of the NFC in conjunction with the government-wide e-payroll initiative and to ensure timely and accurate payroll and personnel services.

Office of Information Technology ("OIT")

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

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

During fiscal year 2006, significant OIT activities included the following: (1) completed the implementation of the upgraded CADRS database; (2) merged a legacy system with the new Bureau of Enforcement (“BOE”) indexing system; (3) updated the policies and procedures associated with the technical assistance provided to FMC staff and changes in the IT infrastructure; (4) provided advice and technical support to all bureaus and offices in developing Internet and database applications; (5) administered the agency’s IT technical support and assistance contracts; (6) continued enhancements to the IT Test Lab and User Support Center; (7) continued to lead and coordinate the Asset Management Committee, IT Change Control Process, and Technical Users Group; (8) furnished agency-wide advice and coordination on electronic records; (9) updated the FMC’s Enterprise Architecture Plan; (10) reviewed the FMC’s systems and completed security assessments for each; (11) upgraded the network security infrastructure to include Secure Socket Layer (“SSL”) virtual private network (“VPN”); (12) completed the implementation of the enhanced Internet-based SERVCON system; (13) conducted requirements analysis and inventory to meet the Internet Protocol version 6 (“IPv6”) government-wide initiative; (14) improved IT compliance with FISMA and other Federal IT initiatives; (15) improved data and wireless telecommunications services and support; (16) conducted an analysis of the agency’s telecommunications services, then consolidated and assumed management of those services; (17) updated the FMC’s System Development Lifecycle plan; (18) further developed the disaster recovery/continuity of operations plans for the agency; (19) submitted IT Federal reports pursuant to FISMA and E-Government; (20) implemented wireless network access; and (21) began development of an automated filing system for FMC Form 18.

For fiscal years 2007 and 2008, OIT will continue to emphasize improved customer service for Commission staff and externally mandated government-wide programs. Major initiatives include plans to: (1) ensure compliance with government programs such as FISMA; (2) implement the new automated FMC Form 18; (3) update the FMC Enterprise Architecture Plan; (4) continue to develop plans to stabilize all critical systems and recommend enhancements to the existing IT infrastructure; (5) complete the IPv6 upgrade and upgrade existing applications for interoperability with IPv6; (6) facilitate the Commission’s ability to take advantage of e-commerce; (7) continue to investigate options to partner with other agencies’ initiatives to better serve the public in the dissemination and collection of information; (8) begin the analysis for upgrading the existing desktop operating system, software applications, and equipment; (9) improve the VPN security infrastructure; (10) continue to improve data and wireless telecommunications services and support; (11) continue to improve the capital planning and investment control process; (12) continue to research new technology through the IT Test Lab and User Support Center; (13) implement Pay.gov initiative; (14) continue development of a new Regulated Persons Index and automated FMC Form 1; (15) implement the new PIERS system; (16) begin development of an Online Agreements system; (17) finalize the consolidation of all telecommunications; and (18) continue to provide assistance, as needed, in the updating of the Commission’s website to provide information to the public.

Office of Management Services (“OMS”)

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

objectives of the Commission. To accomplish this responsibility, the OMS directs and administers a variety of management service functions, including: (1) administering Commission procurement and contracting; (2) controlling and administering the Commission's property utilization, maintenance, inventory and disposition programs; (3) planning and administering programs for improvement of the workplace environment and other space utilization operations for all Commission locations, including office space and provision of office furnishings; (4) managing the receipt, storage, distribution and inventory of all supplies, forms and accessories; (5) coordinating and fulfilling all printing, copying, and graphic service requirements; (6) regulating the receipt, distribution and dispatching of mail; (7) coordinating the use of the building's physical facilities with respect to maintenance, security and parking; (8) arranging transportation services for all Commission locations; (9) conducting safety inspections and coordinating the Commission's emergency planning and evacuation plan; (10) administering the agency's transit benefit program; (11) directing the Commission's participation, development and goal-setting efforts under the Small Business Act; and (12) formulating and implementing policies, procedures, and methods to accomplish support services that are in compliance with governing regulations, as set forth in Titles 41 and 48 of the Code of Federal Regulations.

During fiscal year 2006, OMS: (1) developed a revised office layout to accommodate Operations and OA activities in appropriate office space, and arranged through GSA to have the required physical alterations at FMC's HQ accomplished through the use of the FMC's remaining Tenant Improvement Allowance from our most recent lease renewal; (2) upgraded the procurement services provided through BPD from platform services to full service support; (3) revised and reissued the agency's policy on *Personal Use of FMC Office Equipment*; (4) through the Office Director, continued to serve as the Agency's Technical Representative for monitoring and oversight of the HQ building security contract and continued to serve in the collateral post as Chairman of the tenants' Building Security Committee ("BSC") for the HQ site; (5) provided support for industry briefings, agency functional briefings, and "all-hands" programs and events sponsored by the agency; (6) completed the annual property inventory of accountable property; (7) coordinated the HQ building-wide biannual evacuation drill through the BSC, and prepared and issued a "lessons learned" document to all tenant representatives to assist in improving the process; (8) coordinated through the BSC and established dialog with Department of Homeland Security/Federal Protective Service ("DHS/FPS") to resolve outstanding concerns surrounding the regular payment of invoices to the security force contractor, and to have a special security assessment conducted to address HQ building security vulnerabilities due to changes in building tenants and population; (9) coordinated and implemented the new Government Printing Office Express program for printing/copying services through FedEx Kinko shops nation-wide; (10) coordinated with Operations and OIT to arrange for the acquisition of products and services to reestablish and temporarily relocate the New Orleans ARs office after Hurricane Katrina; (11) and acquired and coordinated lease renewals or office space expansion for a number of ARs.

In fiscal years 2007 and 2008, the Office's objectives include: (1) full implementation and more effective use of procurement services through BPD; (2) working with GSA, DHS, and other tenant agencies at our HQ facilities and field locations to upgrade and/or improve the buildings' security measures and emergency preparedness for better control of office space access and

safety of agency personnel; (3) in conjunction with the agency's other administrative offices, implementing HSPD-12 (new government-wide ID requirements); and (4) continuing to provide advice and assistance to FMC activities regarding innovative support service approaches.

Appendix A

Alphabetical Listing of Abbreviations

	-#-	
1920 Act		Section 19 of the Merchant Marine Act, 1920
1984 Act		Shipping Act of 1984
	-A-	
ADR		Alternative Dispute Resolution
ACE/ITDS System		Automated Commercial Environment/International Trade Data System
ALJ		Administrative Law Judge
APEC Group]		Asia-Pacific Economic Cooperation [Transportation Working Group]
APL		American President Lines, Ltd.
AR		Area Representative
	-B-	
BCL		Bureau of Certification and Licensing
BOE		Bureau of Enforcement
BPD		Bureau of Public Debt
BSC		Building Security Committee
BTA		Bureau of Trade Analysis
	-C-	
CIO		Chief Information Officer
CADRS		Office of Consumer Affairs and Dispute Resolution Services
CATS		Carriers' Automated Tariff Systems
CBP		U.S. Bureau of Customs and Border Protection
CFR		Code of Federal Regulations
Commission		Federal Maritime Commission
CSRS		Civil Service Retirement System
	-D-	
DEEO		Director of Equal Employment Opportunity
DHS		Department of Homeland Security
	-E-	
ECIE		Executive Council on Integrity and Efficiency
EEO		Equal Employment Opportunity
	-F-	
FAEC		Federal Audit Executive Council
FASA		Fashion Accessories Shippers Association
FEHB		Federal Employee's Health Benefits

FERS Federal Employee Retirement System
FISMA Federal Information Security Management Act of 2002
FMC Federal Maritime Commission
FOIA Freedom of Information Act
FPS Federal Protective Service
FSPA Foreign Shipping Practices Act
FY Fiscal Year

-G-

GAO Government Accountability Office
GC General Counsel
GPEA Government Paperwork Elimination Act
GPRA Government Performance and Results Act
GSA Government Services Administration

-H-

HR Human Resources

HSPD12 Homeland Security Presidential Directive 12
Horizon Horizon Lines, LLC
HQ Headquarters (FMC)

-I-

IAG Interagency Agreement
IG Inspector General
IPv6 Internet Protocol Version 6
IT Information Technology

-M-

MOU Memorandum of Understanding
MTO Marine Terminal Operator
MTS Marine Transportation System

-N-

NPR Notice of Proposed Rulemaking
NFC National Finance Center
NVOCC Non-Vessel-Operating Common Carrier
NSA NVOCC Service Arrangement

-O-

OA Office of Administration
OFM Office of Financial Management
OGC Office of General Council
OHR Office of Human Resources
OIG Office of the Inspector General
OIT Office of Information Technology

OMB Office of Management and Budget
OMS Office of Management Services
OPF Official Personnel Folder
OPM Office of Personnel Management
OSRA Ocean Shipping Reform Act of 1998
OTI Ocean Transportation Intermediary

-P-

PGA Participating Government Agency
PIERS Port Import Export Reporting Service
P.L. Public Law
PVO Passenger Vessel Operator

-R-

RPI Regulated Persons Index

-S-

SAC Small Agency Council
SBPRA Small Business Paperwork Relief Act
SERVCON Service Contract Filing System
SES Senior Executive Service
Shipping Act Shipping Act of 1984
SQL Structured Query Language
SSL Secure Socket Layer

-T-

TMF Tariff Mitigation Fee

-U-

U.S. United States
U.S.C. United States Code

-V-

VOCC Vessel Operating Common Carrier
VPN Virtual Private Network

-W-

WY Work Year



FEDERAL MARITIME COMMISSION

FINAL ANNUAL PERFORMANCE PLAN FOR FY 2008

February 2007

LIST OF ACRONYMS

<i>1984</i>	<i>Act Shipping Act of 1984</i>
<i>AR</i>	<i>Area Representative</i>
<i>BCL</i>	<i>Bureau of Certification and Licensing</i>
<i>BOE</i>	<i>Bureau of Enforcement</i>
<i>BTA</i>	<i>Bureau of Trade Analysis</i>
<i>CADRS</i>	<i>Office of Consumer Affairs and Dispute Resolution Services</i>
<i>COOP</i>	<i>Continuity of Operations Plan</i>
<i>EHR1</i>	<i>Enterprise Human Resources Integration</i>
<i>e-OPF</i>	<i>Electronic Official Personnel Folder</i>
<i>FMC/Commission</i>	<i>Federal Maritime Commission</i>
<i>FR</i>	<i>Final Rule</i>
<i>FRB</i>	<i>Federal Reserve Bank</i>
<i>FTE</i>	<i>Full Time Equivalent Employee</i>
<i>FY</i>	<i>Fiscal Year</i>
<i>GPEA</i>	<i>Government Paperwork Elimination Act</i>
<i>GPRA</i>	<i>Government Performance and Results Act</i>
<i>IAA</i>	<i>Inter-agency Agreement</i>
<i>IT</i>	<i>Information Technology</i>
<i>NARA</i>	<i>National Archives and Records Administration</i>
<i>NPR</i>	<i>Notice of Proposed Rulemaking</i>
<i>NVOCC</i>	<i>Non-Vessel-Operating Common Carrier</i>
<i>OIT</i>	<i>Office of Information Technology</i>

<i>OMB</i>	<i>Office of Management and Budget</i>
<i>OPF</i>	<i>Official Personnel Folder</i>
<i>OPM</i>	<i>Office of Personnel Management</i>
<i>OPS</i>	<i>Office of Operations</i>
<i>OSRA</i>	<i>Ocean Shipping Reform Act of 1998 OTI Ocean Transportation Intermediary</i>
<i>PVO</i>	<i>Passenger Vessel Operator</i>
<i>SAHRC</i>	<i>Small Agency Human Resources Consortium</i>
<i>SC</i>	<i>Service Contract</i>
<i>SOW</i>	<i>Statement of Work</i>
<i>U.S.</i>	<i>United States</i>
<i>VOCC</i>	<i>Vessel-Operating Common Carrier</i>

INTRODUCTION

This document comprises the FMC's Final Annual Performance Plan for FY 2008. This plan is closely linked to the agency's Strategic Plan, and it sets forth objective performance goals and narrow, measurable performance indicators so as to facilitate implementation and assessment of performance.

For FY 2008, we have continued the modified approach for our annual planning first implemented with our Revised Final Plan for FY 2005. Agency performance goals now are tied directly to our Strategic Goals instead of our budget program activities. This has resulted in the development of broader performance goals better suited to the achievement of agency-wide objectives, as opposed to more narrowly focused goals tailored to the responsibilities of individual units. It also facilitates our aim of utilizing a more inclusive, collaborative approach in conducting our ongoing activities, which we believe both enhances decision-making and improves ultimate results. Addressing our performance goals in this fashion also has enabled us to link planning, budgeting and performance more effectively.

Our Plan for FY 2008 focuses on continuing our efforts to implement the President's Management Agenda initiative to expand electronic government. Several performance goals focus on utilizing technology to streamline and simplify the delivery of services and information to regulated entities and the public, and to improving our databases so the staff can more effectively identify regulated entities, relevant data/information, and potential abuses.

Performance goals also were developed to enhance our management capabilities, with particular focus on the more effective use of teleworking and the implementation of EHRI, and to improve our technological efficiency through upgrading agency network and desktop operating systems and improving access to library information.

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

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

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

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

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

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

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

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

The Commission used its existing consultation process in developing this Plan. We have kept key Congressional Committees apprised of our efforts, and have responded to any inquiries. We continued our ad hoc meetings and visits with industry officials to discuss the state of U.S. ocean shipping and the FMC's oversight responsibilities. In coordination with the various sectors of the maritime industry, we are holding periodic briefings by industry experts designed to provide Commission staff with valuable information on industry services, operations, business practices, and regulatory concerns. And we have initiated a broader outreach program to expand our extant seminar series, where agency staff travels to various locations to exchange information and discuss relevant issues with the industry and the shipping public. The information and opinions we received via these various efforts have assisted us in developing our performance goals and implementing approaches. It is clear that those involved in the various sectors of U.S. ocean shipping understand the Commission's major program activities and, at the same time, the Commission is cognizant of the views of all parties with whom it interacts.

In line with OMB guidance, the Commission has reflected the resources needed to accomplish its various functions. We have provided FTE and funding figures for each Strategic Goal, which reflect what we believe will be required to accomplish the performance goals and "steady state" functions under each respective Strategic Goal. Accordingly, all Commission resources are accounted for in this Plan, i.e., the figures under each Strategic Goal, when summed, reflect the full FTE and funding levels of our FY 2008 budget.

The Commission will post this Performance Plan on its Internet website to ensure that it is readily accessible to interested parties, and will advise all employees to take the time to review

it. Additionally, all employee performance plans are required to comport with the agency's Strategic and Annual Performance Plans, and contain specific elements and standards with a clear explanation of what is expected of the employee in support of the agency achieving its goals. This process in turn has the effect of directly furthering the Administration's initiative on strategic human capital management. Performance of managers and staff is evaluated in part on how they achieve the objectives in this plan.

FMC STRATEGIC GOALS

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

FMC VISION AND MISSION

The FMC's vision is:

Fairness and Efficiency in U.S. Maritime Commerce.

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

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

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

LINKAGE BETWEEN MISSION STATEMENT AND STRATEGIC GOALS

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

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

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

U.S. trades will afford greater protection to our stakeholders and contribute to national maritime security. And cruise passengers also will be protected through the demonstration of financial responsibility by passenger vessel operators.

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

We also have a specific strategic goal that focuses on making effective use of advancements in IT to improve the efficiency of our operations and enhance our exchange of information with external parties. Carrying out the agency's mission in times of budgetary limitations dictates that we appropriately utilize all available resources. Dynamic changes continue to be made in this area, and the Commission intends to take advantage of any improvement that can enable it

to perform its functions more effectively. We hope to improve our business operations so as to add efficiency to the Commission's dissemination and receipt of information. We intend to perform the research and analysis necessary to identify the best options for implementing technical enhancements to facilitate our efforts to achieve our mission.

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

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

I. STRATEGIC GOAL: Efficient Regulatory Process

36 FTEs and \$6,731,000 will be required to accomplish this goal.

2008 Steady State Activities:

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

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Develop plan for automating PVO Application Form 131 and perform requirements analysis.	- Automate agency systems.	<ul style="list-style-type: none"> - More user friendly and convenient process for industry to apply for certificates of nonperformance and casualty. - Reduction in burden and cost for industry. - More timely and effective staff review and process. - More efficient database management. 	<ul style="list-style-type: none"> - Facilitate filing of PVO applications. - Improve BCL's ability to receive and process PVO certificates. - Contributes to streamlined PVO process. - Reduce staff database management efforts. 	<ul style="list-style-type: none"> - Discuss with PVOs benefits of electronic filings. - Identify system functionality. - Initiate development of SOW. - Begin development of system & implementation plans. 	<ul style="list-style-type: none"> - Requirements analysis conducted. - Initial SOW drafted. - Feedback from staff. - Identify and resolve any impediments, then continue next steps identified in overall plan.
2. By 9/30/08, assess the impact and effectiveness of the new rules for agreements.	-Update and/or refine FMC rules relating to the content of filed agreements, minutes, information form & monitoring reports.	<ul style="list-style-type: none"> -Written report to Director, OPS re: <ul style="list-style-type: none"> - Extent relevant filings are timely, useful, complete, & accurate. - Level of industry compliance/ concerns - Filings' impact on regulatory costs/ burdens; - Impact on processing times for agreement filing/ effective -ness of ongoing monitoring of agreements of concern to BTA; - Impact on "follow-up" contacts w/filers related to routine monitoring; - Extent to which filed information effectively used; -Recommendations for further changes to rules post-assessment. 	<ul style="list-style-type: none"> -Drawing on relevant BTA databases, data and information to address the performance goal are collected. -Relevant agreement files reviewed, and information relevant to the performance goal collected. - BTA staff surveyed to collect information relevant to the performance goal. - Relevant data from samples of industry filers collected. 	<ul style="list-style-type: none"> -Research team is established -- composed of a team leader and approximately four BTA staff members. -Team agrees on the necessary tasks & workload distribution to address fully the performance goal. -Team meets bi-weekly to share findings, concerns or problems. - Team members meet with industry representatives for relevant input. - Team drafts final report and any proposals for revising existing rules. 	<ul style="list-style-type: none"> -Bureau director manages ongoing staff efforts. -Team leader for project tracks progress of team through periodic meetings and deadlines established to maintain schedule. - Feedback from industry sectors on costs/burdens related to current rules, and on alternative data sources.

II. STRATEGIC GOAL: Compliance

47 FTEs and \$7,970,000 will be required to accomplish this goal.

2008 Steady State Activities:

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

◆ Respond to inquiries and complaints from the regulated industry and shipping public. Provide information, assistance and forms necessary to comply with applicable statutes and Commission regulations including educational seminars.

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Enhance OTI audit/ monitoring program as to unlicensed operators.	-Ensure higher compliance with licensing & bonding requirements. -Enhance monitoring programs to improve industry compliance.	-Ensure those OTIs whose applications have been rejected or terminated for inaction receive compliance follow-up. - Pursue, monitor or audit those OTIs who fail to get licensed or re-licensed.	- Number of entities re-licensed. - Number of compliance or enforcement actions against entities who refuse to be licensed or re-licensed.	- Develop procedures to assist review of monitoring. - Identify procedures and requirements to coordinate possible compliance or enforcement actions.	-Quarterly reviews by BCL. - Quarterly reports by BOE & ARs as to efforts with regards to non-compliant entities.
2. Begin redesign of the functionality of OTI list on the homepage to include more information and make it more interactive.	-Increase outreach via FMC's homepage.	- Enhance query/ search capability. - Provide more timely information. -Protect the public & users of ocean transportation services by providing more information re: choosing an OTI or ensuring an OTI is licensed/ bonded.	- Facilitate industry and public accessibility to list of compliant OTIs. - Improve compliance with statute and regulations by OTIs and VOCCs. - Enhance protection of shipping public.	- Identify data to be displayed & queried. - Conduct requirements analysis. - Develop overall plan for system and its implementation.	- Requirements analysis successfully completed. - Identify and resolve any impediments, then continue next steps identified in overall plan.

III. STRATEGIC GOAL: Balanced Enforcement

19 FTEs and \$3,497,000 will be required to accomplish this goal.

2008 Steady State Activities:

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

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Review “best practices” re: VOCCs & NVOCCs offering service to non-compliant entities	- Encourage voluntary compliance by increasing outreach to industry.	-Improved compliance by VOCCs and NVOCCs w/their statutory responsibility not to provide service to non-compliant OTIs. -Improved maritime security by limiting service to non-compliant OTIs. -Increased protection of the shipping public by limiting the operations of unbonded and unqualified OTIs. -More equitable competition among VOCCs and among entities operating as compliant OTIs.	-Increased recognition by VOCCs & NVOCCs of the benefits of implementing a “best practices” program. -Reduction in the number of noncompliant OTIs receiving service from VOCCs & NVOCCs. -Reduction in the number of complaints received by CADRS relating to unbonded & untariffed NVOCCs.	-Utilize outreach resources, including the FMC’s website, electronic databases & activities of the ARs, to promote the ‘best practices’ program among the VOCC & NVOCC communities. -Provide appropriate “mitigation” recognition in enforcement actions to entities w/ “best practices” programs.	-Review of outreach & promotional efforts & materials developed to advise VOCCs & NVOCCs of the availability of the “best practices” program. -Number of VOCCs & NVOCCs implementing “best practices” programs. -Usage of “best practices” in mitigation of enforcement actions. -Level of recidivism among those VOCCs & NVOCCs adopting “best practices” programs.
2. Develop rulemaking containing new enforcement options against cruise lines that fail to file PVO reports.	- Enhance monitoring programs to improve compliance.	- Timely filed and accurate PVO reports. - More efficient and effective monitoring of PVO activities.	- Reduction of staff resources spent contacting PVOs to submit reports.	- Prepare NPR. - Solicit comments. - Issue FR.	- Reduction in number of PVOs identified as noncompliant. - Actions taken against noncompliant PVOs.

IV. STRATEGIC GOAL: Technological Efficiencies

15 FTEs and \$2,518,000 will be required to accomplish this goal.

2008 Steady State Activities:

- ◆ Implementing a wide range of IT programs and services, including operating the agency's local area network, strategic planning for short- and long-term IT initiatives, IT security, data telecommunications, database development and management, and Internet page development and maintenance to enhance productivity and efficiency.

- ◆ Maintaining and updating internal databases to enhance the ability of the public and Commission to obtain relevant program-related information and enhance staff productivity.

- ◆ Converting Commission records into electronic format to enable easier public access to information

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Implementation of Pay.gov.	<ul style="list-style-type: none"> -Increase use of modern technologies & systems to improve results. -Employ OMB's procedures to meet GPEA mandates. 	<ul style="list-style-type: none"> -Agencywide acceptance of electronic payments. -Industry use of electronic payments. -Relative reporting output from Pay.gov. 	<ul style="list-style-type: none"> -Volume of electronic payments received. -Feedback from the industry/users of electronic payments. -Feedback from involved FMC employees. 	<ul style="list-style-type: none"> -Conduct internal assessment to determine ways agency units might require Pay.gov support. -Meet w/ Treasury regarding implementation procedures and requirements. -Discuss and refine requirements. -Consult w/ senior management & Chairman with proposed implementation plans. - Conduct meeting(s) with Treasury to develop an Agency Configuration Template. -Begin conversion process. -Sign agreement w/ FRB Cleveland to set up, create and deploy application for FMC to receive electronic payments. -Conduct application testing prior to going "live". -Deploy electronic payment option agencywide. 	<ul style="list-style-type: none"> -Industry usage of electronic payments. -Feedback from customer base. -Feedback from involved FMC employees.
2. Upgrade network and desktop operating systems.	<ul style="list-style-type: none"> - Identify and provide information technology to improve workforce productivity. 	<ul style="list-style-type: none"> - Agency-wide standard desktop and laptop foundation. - Agency-wide standard server configuration. 	<ul style="list-style-type: none"> - Successful upgrade from current operating system to new operating system. - Positive feedback from FMC users. 	<ul style="list-style-type: none"> - Complete inventory of existing equipment. - Select software, test, acquire & configure. - Update all procedures w/ new desktop and server configurations. - Deploy software. 	<ul style="list-style-type: none"> - Agency operating systems are selected, tested, and deployed. - Feedback from FMC staff.

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
3. Initiate integration of major databases.	<ul style="list-style-type: none"> - Increase use of modern technologies to improve results by enhancing work processes. 	<ul style="list-style-type: none"> - Building on analysis of information collections completed in FY06, design centralized, unified & secure database system of regulated entities for use by Commission staff. - Design to meet needs of all Commission offices & bureaus with regard to regulated entity data collection. 	<ul style="list-style-type: none"> - Facilitate retrieval of data. - Enhance analytical capability. - Reduce duplication of data input. 	<ul style="list-style-type: none"> - Work with other Commission components, OIT & contractor, if applicable, to develop system. - Assure periodic meetings held to evaluate progress. - Develop SOW or in-house proposal to develop system. 	<ul style="list-style-type: none"> - Successful completion of implementation plan of action steps. - Feedback from staff.
4. Explore options for and begin the development of an online catalogue for the FMC's law/ reference library collection.	<ul style="list-style-type: none"> -Employ technology to improve workforce productivity. 	<ul style="list-style-type: none"> - Paper catalogue in library replaced by online access station. - Staff has access to library catalogue from desktops. - Increased efficiency in searching library resources. - Directly link online catalogue entries to other electronic resources. - Reduce redundancy of data entry across library modules. 	<ul style="list-style-type: none"> - Options for automating the card catalogue evaluated against specific needs and recommendations made. - Online catalogue created based on recommended approach. - Paper catalogue replaced with online work station in the library. - Staff access to catalogue from desktops. 	<ul style="list-style-type: none"> - Research online catalogue options, make recommendations. - Design screens and other aspects of system. - Populate catalogue through either scanning of catalogue cards or use of outside source documents. - Work with OIT to provide desktop access to staff, including ARs, through central server. - Train staff on how to use system. 	<ul style="list-style-type: none"> - Assess recommendations for timeliness and appropriateness. - Assess feedback from FMC staff and the public. - Assess overall effectiveness of new system.

V. STRATEGIC GOAL: Management Capabilities

10 FTEs and \$1,606,000 will be required to accomplish this goal.

2008 Steady State Activities:

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

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Fast track implementation of EHRI (e-OPF)	-Evaluate approaches for increasing the use of modern technology to improve results.	- Eliminate the need for a paper OPF. - Establish database to enable electronic transfer of e-OPF data among Federal agencies (future). - Achieve economy/ annual savings by eliminating the paper folder. -In sync w/ OPM strategic plan & operational goal to convert 50% of hard copy OPFs to electronic format by 10/1/2008.	-Volume of OPF documents processed & filed. -Feedback from e-Government officials, users of e-OPF. -Feedback from involved FMC employees.	-Meet w/ OPM/ & SAHRC on funding, implementation, and requirements. -Begin Fast-track implementation. -Update IAA w/ OPM & SAHRC EHRI reps to lay framework for other products. -Activate e-OPF accounts for employees, managers, “friends and family” accounts.	-Feedback from SAHRC user group, EHRI program officials, customers. -Feedback from involved FMC employees. - NARA requirements.

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
<p>2. Assess telework program to encourage usage & advance efficiency of operations.</p>	<ul style="list-style-type: none"> - Emphasizes workforce planning issues such as recruitment and retention. -Encourage activities that help employees demonstrate abilities and achieve full potential. 	<ul style="list-style-type: none"> -Encourages the better understanding of the benefits of teleworking for both employees, agency and the environment (e.g., more flexibilities for employees, a more powerful tool for recruitment & retention of employees, less fuel consumption) -Agency increases the total number of participating employees & teleworked days without deterioration of effectiveness and efficiency. -Supervisors can assess employees' performance using simple measurement tools. -Agency has clear benchmarks to assess success of program. 	<ul style="list-style-type: none"> -Significant increase in total number of participating employees& total number of teleworked days per year over prior year's experience. -Development of new supervisory tools. - Development of an annual survey of supervisors' and employees' opinions of program. -Development of benchmarks by which Agency may measure success of program. 	<ul style="list-style-type: none"> -Identify total number of employees & days teleworked under current program in the past year. -Review positions/ types of work which can, or cannot, be performed via telework. - Identify the optimum number of days per week/ month/year which can be teleworked consistent with Agency's duties. -Identify benchmarks for satisfactory use of program. -Assess supervisors' and employees' opinions on the program. -Registration of eligible employees for use of program. - Administration of opinion survey of supervisors and employees on their views regarding the program. - Implementation of new supervisory tools. 	<ul style="list-style-type: none"> -Senior management evaluates the adequacy of the number of participating employees, the results of annual survey of supervisors and employees. -Chairman evaluates the operation of the program relative to the effective and efficient conduct of Agency business. -Chairman reviews the results of supervisor & employee survey & target benchmarks established for the program.