

FEDERAL MARITIME COMMISSION



ANNUAL PROGRAM PERFORMANCE REPORT

FOR FY 2004

January 2005

LIST OF ACRONYMS

<i>ADR</i>	<i>Alternative Dispute Resolution</i>
<i>ALJ</i>	<i>Administrative Law Judge</i>
<i>CBP</i>	<i>Bureau of Customs and Border Protection</i>
<i>FISMA</i>	<i>Federal Information Security Management Act</i>
<i>FMC/Commission</i>	<i>Federal Maritime Commission</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>IT</i>	<i>Information Technology</i>
<i>MOU</i>	<i>Memorandum of Understanding</i>
<i>NVOCC</i>	<i>Non-Vessel-Operating Common Carrier</i>
<i>OMB</i>	<i>Office of Management and Budget</i>
<i>OTI</i>	<i>Ocean Transportation Intermediary</i>
<i>PVO</i>	<i>Passenger Vessel Operator</i>
<i>RPI</i>	<i>Regulated Persons Index</i>
<i>SERVCON</i>	<i>Service Contract Filing System</i>
<i>Shipping Act of 1984</i>	<i>Shipping Act</i>
<i>VOCC</i>	<i>Vessel-Operating Common Carrier</i>

INTRODUCTION

The Commission has prepared the following Annual Program Performance Report for FY 2004, as required by GPRA, and in accordance with OMB Circular No. A-11, Part 2. The Commission's actual performance in FY 2004 is compared with the projected levels of performance established in the agency's FY 2004 Annual Performance Plan.

This progress report covers the Commission's efforts in FY 2004 to foster an equitable, secure, and market driven ocean transportation industry. The Commission continued to focus on improving its services to the public and its stakeholders by increasing the amount of information available through electronic means, and by enhancing its outreach and assistance services, e.g., ADR. We reviewed existing regulations for consistency with port and maritime security initiatives undertaken by Congress and other Federal agencies, and to ensure that our operating programs meet the contemporary needs of the shipping public while not imposing undue burdens on the industry. In addition, we focused on identifying and addressing market-distorting shipping practices, and continued to facilitate appropriate compliance by OTI and VOCC entities so as to avoid unfair competitive advantages and to protect the public. We also examined our internal performance appraisal process to ensure that employee activities directly support accomplishment of the agency's mission.

We achieved overall success in reaching our stated goals and objectives -- accomplishing most and exceeding several. We continue to find that the planning and direction required by the GPRA process facilitates our efforts to attain results-driven objectives.

We have forwarded this report to the President, with a copy to the Director, OMB, and relevant Congressional committees. Additionally, we have placed this document on our Internet website to ensure that it is readily accessible to interested parties, and have advised all Commission employees to take the time to review it.

We have sought to be direct and concise in the manner in which we are presenting the relevant information. For organizational purposes, and to facilitate review, this report reflects our revised mission statement, and briefly summarizes it. We then list the strategic goals we have identified as crucial to accomplish our mission. In order to reflect the linkage between our strategic goals and performance goals, we have organized this report by the five program activities under which we operated in FY 2004. For each of these activities, we state the specific strategic goals that are directly related to the performance goals attendant to that activity. We then state each performance goal, the target level of performance for each, and our actual level of performance regarding that goal. For any performance goal that was not met or not substantially completed, we have provided a specific explanation why the goal was not met, along with the actions and schedule for meeting the goal in the future. Additionally, the last section of this report identifies the performance goals from our fiscal years 2002 and 2003 Program Performance Reports which we previously reported as not having been accomplished or substantially completed, and explains the actions we subsequently took to satisfy the requirements of each such goal.

FMC MISSION

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.*

The Commission acknowledged in its 2003 Strategic Plan that the basic principles of liner shipping were being modified, as the shipping industry continued to restructure itself while shippers were placing an increasing importance on rates and services. Given the significant issues the agency was facing, in 2003 it identified the actions necessary to ensure that its oversight and legislative initiatives produced a competitive and nondiscriminatory trading environment in the U.S. ocean commerce that was in harmony with and responsive to international shipping practices. During 2004, the Commission built on that analysis and focused its energies and efforts on re-evaluating its organizational structure to ensure that it was aligned and managed in a manner best suited to accomplish its mission with a minimum of government intervention and regulatory costs. In 2004, the Commission transformed its structure to reinforce its focus on program issues and to emphasize outreach for a more open dialogue with our industry partners and stakeholders in light of the changing dynamics of the ocean shipping industry. As part of this process, we concentrated on expanding our ADR program, and bolstered our IT infrastructure in order to meet the challenges of automation in a way which will facilitate the industry's ability to conduct business with the FMC. The realignment also allows the FMC the flexibility necessary to grow and change as the industry continues to evolve.

FMC STRATEGIC GOALS

In recognition of its stated mission, and in conformity with the Shipping Act, the FMC established the following five strategic goals:

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

These strategic goals addressed all important FMC statutory, programmatic, and management responsibilities. They were developed with a specific focus on accomplishing the basic thrusts of our mission. The Commission determined that achieving its mission-driven goals would enable it to address effectively the external factors it faced, while assuring an equitable and efficient administration of the shipping statutes under its jurisdiction.

PROGRESS IN ACHIEVING PERFORMANCE GOALS

The performance goals of the Commission's FY 2004 Annual Performance Plan were linked directly to the Commission's strategic goals; they were identified as the appropriate means for accomplishing our mission. This section of the report assesses our actual performance in addressing these goals.

Budget Program Activity: Formal Proceedings

Related 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.
3. *Balanced Enforcement:* Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.
4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

Performance Goal 1:

Compile and convert to electronic form ALJ Initial Decisions and Commission Reports and orders issued for the first year subsequent to the period covered by Volume 18 of Federal Maritime Commission Reports.

Progress: The Commission successfully completed this goal during FY 2004. Staff researched Commission records and identified relevant Commission decisions that were issued subsequent to the period covered by the last published bound volume - Volume 28 of the Federal Maritime Commission Reports (July 1985-June 1987). Commission decisions issued between mid-June 1987 and December 1988 were sorted chronologically, scanned, and converted to electronic format. It is worth noting that the Commission actually exceeded this goal by identifying and compiling an additional two years' worth of Commission decisions, i.e., those issued during 1989 and 1990. The electronic version of the decisions compiled under this goal, as well as others that have yet to be scanned, will be placed on the Commission's website. In the meantime, Commission decisions are available to the public in electronic format upon request.

Performance Goal 2:

Review Commission rules and evaluate for consistency with port and maritime security initiatives undertaken by Congress and other Federal agencies. Amend rules as necessary.

Progress: The Commission accomplished this goal during FY 2004. The General Counsel reviewed Commission regulations on a regular basis to ensure consistency with legislative efforts and rulemaking initiatives by other agencies. Further, the General Counsel continued to serve as liaison with Federal law enforcement and defense agencies regarding security initiatives, and in particular worked to facilitate the exchange of information to assist in the Nation's port and maritime security efforts.

Performance Goal 3

Permanent Task Force on International Affairs monitors foreign laws and practices to determine whether there is any disadvantage to U.S. interests or any unjust non-market barriers to fair trade.

Progress: The Commission continues to succeed in achieving this crucial performance goal. The Commission maintained and broadened relationships with other Federal agencies, U.S.-flag carriers and U.S. shipping interests through cooperative discussion addressing important issues in international oceanborne commerce. The Commission continued its strong working relationships with the Department of State and the U.S. Maritime Administration, and worked effectively with other Federal components and with representatives of foreign governments. As monitor of the Task Force, the General Counsel has undertaken a review of whether semiannual briefing papers are the most effective means of providing information on Task Force efforts to the Commission. The General Counsel supplied several timely reports to the Commission during the fiscal year in lieu of semiannual papers.

Budget Program Activity: Operational and Administrative

Related 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.
5. *Management Capabilities:* Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

Performance Goal 1:

Ensure that information disseminated to the public complies 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.

Progress: The Office of the Secretary, in conjunction with other Commission components, reviews for accuracy every document issued by the Commission whether it is in hard copy or electronic format. This has resulted in the Commission meeting this performance goal. This is evidenced by the Annual Report that the Commission has submitted under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 which indicated that the Commission has received no correspondence regarding the quality of the information published by the Commission.

Performance Goal 2:

Assess all forms, processes, and systems changed to comport with the Government Paperwork Elimination Act, and develop/implement a plan for the organized and effective use of the involved information/data.

Progress: Several forms have been identified as appropriate for automation pursuant to GPEA. The FMC-18 (Application for a License as an OTI) and FMC-48 (OTI Bond) are still under program review and thus not available for IT automation. The FMC-83 (Service Contract Registration) and the new FMC-78 (NVOCC Service Arrangement Registration) are linked to the SERVCON system which was recently brought in-house and which will be replaced with a new, updated system during the second quarter of FY 2005. At that time, the Commission will be able to address the electronic filing of those two forms. In addition, the agency's project to redesign its website has

encompassed a review of forms that will expedite automation of such forms. In the meantime, the Office of Operations is working actively to determine how to efficiently coordinate the use of data and information collected by these forms so that information is shared across the agency and that redundancies in information collection and storage are eliminated.

Performance Goal 3:

Assess the agency's performance appraisal process to ensure that employee performance elements directly support accomplishments of the agency mission, and employee appraisals accurately reflect the level of achievement.

Progress: The Commission accomplished the objectives of this performance goal in FY 2004. Applicable internal operating orders have been modified to require all performance plans to identify special objectives in line with specific agency goals, with a clear explanation of what is expected of the employee in support of the agency achieving the involved goal. A review of employee performance plans revealed that agency managers developed and finalized employee performance plans that complied with this requirement - this was true for the plans of senior executives, managers and supervisors, and line staff. Employees were involved in this process, in order to exchange views and to ensure a clear understanding of all expectations. The agency also made significant progress in the quality of its assessments and in conducting straightforward appraisals of actual accomplishments. While we envision further improvements, the requirements of this performance goal were achieved.

Budget Program Activity: Certification and Licensing

Related 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 the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.
4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

Performance Goal 1:

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

Progress: While the Commission has not completed this goal, it has made substantial progress in modernizing the RPI database in FY 2004. Data elements, queries and standard reports have been identified and programmed, as applicable. The required functionality has been identified and staff is working on ensuring that the updated RPI is compatible with other Commission databases and will meet the needs of various Commission components. The update will be completed in FY 2005.

Performance Goal 2:

Complete a rulemaking by 9/30/04 that makes the changes necessary to ensure that PVOs' financial responsibility requirements for nonperformance are providing appropriate protection for the public.

Progress: The proposed rule generated comments from forty-one parties, consisting of: port interests (5), travel agents (16), passenger vessel interests (7), financial/surety industry interests (7), an industry association representing all segments of the travel industry, and five individuals. Some of these comments were strongly supportive about certain aspects of the proposal, but others voiced strong opposition. These comments were thoroughly analyzed and various options to the proposed approach were explored. Accordingly, the goal of completing this rulemaking by September 2004 proved overly ambitious. The Commission is still considering various options, and is taking care to finalize a rule that protects cruise passengers without adding extensive new costs to the cruise industry.

Performance Goal 3:

Utilize ADR, including exploring the use of arbitration, to resolve passenger claims in the PVO program.

Progress: The proposed rule referred to in the previous Goal (Goal #2) would have utilized arbitration to resolve claims issues in certain instances where passenger vessel operators did not respond to claims after six months. This usually would involve a situation in which the operator ceased operations. This proposal generated significant opposition, and therefore has not been adopted. However, as part of the agency's realignment in August 2004, the Commission formed the Office of Consumer Affairs and Dispute Resolution. That newly formed Office and its predecessor Office of Consumer Complaints acted as intermediary and helped to resolve many passenger complaints during FY 2004. In addition, the pre-realignment Bureau of Consumer Complaints and Licensing worked with the staff, attorney and escrow agent of a failed cruise line to expedite reimbursement of passengers.

Budget Program Activity: Trade Analysis

Related 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.
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.

Performance Goal 1:

By 1/1/04, develop and implement an automated agreement library that will be accessible online through the agency's website, and use the agency's website to announce agreement filings.

Progress: This performance goal has been substantially completed. To date, the Commission has developed and implemented an automated agreement library that it uses to provide copies of agreements to the general public via e-mail attachments. An objective of this goal is the on-line access to the library. The agency currently is developing an updated website, and access to the library will be a feature available to the public once that effort is completed. Also, notices of agreement filings will be another added feature of the upgraded website.

Performance Goal 2:

By 9/30/04, develop prototype for confidential, semiannual Commission trade profile on economic and liner trade conditions in major U.S. trade lanes.

Progress: This performance goal was completed prior to the scheduled deadline. Based on the needs of the Commission, it was determined that the trade profile report would be published on a quarterly rather than a semiannual basis. A comprehensive prototype for the confidential trade profile was transmitted to the Commission requesting feedback on any changes needed. The report was revised based on suggestions made. The two trade reports transmitted to the Commission in FY 2004 included comprehensive analysis of agreement activities and trade conditions, including service contracting activities.

Performance Goal 3:

Refine and update methodology to develop freight rate indices for major U.S. trade lanes.

Progress: This performance goal has been substantially completed. Three separate but complementary approaches to developing rate indexes are being explored, each tailored to different functional needs of the Commission. The first, traditional approach involves indexing liner freight rates by holding constant commodity, origin/destination, carrier and any agreement affiliation. We also, as a secondary approach, have been developing indexes on a pilot basis using the revenue yield data contained in quarterly monitoring reports that agreement carriers file with the FMC. The final approach being explored is based on the reality that confidential service contracts now are almost entirely pervasive, moving over ninety percent of cargo in the major trade lanes. In due course, it appears that the detailed evaluation of service contracting will delineate emerging commercial trends in U.S. liner shipping, including carriers' pricing activities and their assessment of surcharges and other fees.

Budget Program Activity: Enforcement

Related 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 the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.
3. *Balanced Enforcement:* Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.

Performance Goal 1:

Utilize existing databases (i.e., Customs' Automated Commercial System, Journal of Commerce Port Import Export Reporting Service, FMC Internet-based Service Contract Filing System) to identify unlicensed and non-compliant OTIs participating in transportation subject to FMC jurisdiction and VOCCs which provide transportation services to these entities.

Progress: This performance goal was achieved by review and utilization of existing databases, including the Bureau of Customs and Border Protection's ACS, JOC's PIERS, and the Commission's SERVCON. As possible, unlicensed and non-compliant OTIs were identified, notification was given to them of their possible status, and information provided on how to become compliant with applicable statutes and regulations. Notification of this type was provided to over 200 entities during the fiscal year. During this period, 360 new or amended licenses were issued and there was an increase of fifty in the number of registered foreign-domiciled OTIs. Investigative or audit review was opened with respect to approximately fifty OTI entities and concluded in seventy instances. Of those reviewed, fifteen concluded with compromise or settlement of possible penalty amounts. VOCC activity with possible unlawful OTIs also was reviewed. Investigative and audit activity was conducted with respect to eighteen VOCC entities. Of those reviewed, five concluded with compromise of possible penalty amounts. This informational, investigative and enforcement activity resulted in decreases in unlicensed

entities and increases in licensed and compliant OTIs.

Performance Goal 2:

Coordinate databases with agencies or government groups involved in homeland security to improve identification of entities providing and utilizing maritime transportation services. Formalize coordination through memoranda of understanding where possible.

Progress: The Commission worked with several government agencies and groups in helping to ensure the safe and efficient movement of cargo into and out of the United States. Databases and information were shared with and received from the CBP pursuant to a long-standing MOU. This cooperation has led to several joint field operations to investigate entities suspected of violating either or both agencies' statutes or regulations. With respect to future access and sharing of information, Commission representatives have met with CBP, and participated in training, to facilitate the development of CBP's new ACE/ITDS system. CBP has advised that a new MOU will be prepared for use by all agencies participating in the new system which will provide for appropriate access and functionality for the sharing of this database information. In addition to CBP, Commission representatives have met with other defense and law enforcement governmental agencies to facilitate the sharing of information important to homeland and port security issues to accomplish this goal.

Performance Goal 3:

Utilize public outreach program to educate maritime transportation users and providers with regard to FMC statutes and regulations, and to encourage voluntary compliance with applicable laws and regulations.

Progress: To accomplish this goal, an educational seminar entitled "Navigating the Regulations" was developed and offered without cost to the public. The seminar was conducted by Commission personnel at twenty separate locations throughout the United States. Materials also were prepared to accompany the presentation which described the Commission, its statutes and regulations, and the services offered, including Alternative Dispute Resolution services. The seminar was well received and provided the opportunity for the industry and the shipping public to attend and receive answers to questions or assistance with specific concerns on a face-to-face basis. In addition to these seminars, Commission representatives appeared at and participated in many industry-sponsored events and meetings to explain the Commission's policies, practices and programs, offering assistance in each instance. Further, the Commission has invited representatives of the industry to provide information directly to the Commission staff to inform of their concerns and to explain their practices and procedures. These efforts have resulted in an increase in the number of licensed entities, and a significant increase in the use of the agency's services to resolve complaints informally.

FY 2001, 2002 AND 2003 PERFORMANCE GOALS NOT ACHIEVED

This section reflects the goal from our FY 2001 Annual Performance Plan which we reflected in our FY 2002 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address this goal.

Performance Goal 3 (Trade Analysis Program Activity):

By 3/31/01, propose amendment to Commission's regulations for agreement minutes reporting to clarify filer's responsibility, and to develop and implement an alternative reporting requirement for carrier alliances.

Progress: This performance goal has been completed. A final rule covering the filing responsibilities of all ocean common carrier and marine terminal operator agreements subject to the Shipping Act was published in the Federal Register on November 4, 2004. The effective date for rules related to the revised minutes filing requirement became effective on January 3, 2005. Other reporting requirements are effective on February 2, 2005. The new requirements have clarified the definition of meetings that must be minuted and those topics that are exempt from the minutes filing agreement. As crafted, the reporting requirements for carrier alliance agreements as well as all other agreements depend on the specific authority contained in the agreement. Prior to the final rule, reporting requirements were applied to agreements that were categorized by type, such as conferences, rather than authority. Given the developments in the industry and diverse agreement authorities contained in various types of agreements, the Commission believes that new reporting requirements based on authority will enable it to obtain the data necessary to monitor the activities of all carrier agreements effectively, including alliances, while minimizing the burden on the industry.

This section reflects the goal from our FY 2002 Annual Performance Plan which we reflected in our FY 2002 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address this goal.

Performance Goal 1 (Operational and Administrative Program Activity)

By 9/30/02, utilize developments in technology to find a reasonable, cost-effective software system to procure, then develop and implement the capability for electronic filing for all major business transactions with the Commission, consistent with the Government Paperwork Elimination Act and the Electronic Signatures in National and Global Commerce Act.

Progress: Soon after the Commission's hiring of a CIO in June 2003, an audit was conducted for GPEA purposes of all major business transactions with the Commission. It was determined that there was one form (FMC-83 - Service Contract Registration) that the Commission should make available for electronic filing. Other information collections potentially lending themselves to electronic filing (i.e., agreements and related monitoring reports and information form, the FMC-18 - Application for a License as an OTI, and FMC-48 - OTI Bond) were all pending change/review and not feasible at that time for moving forward with electronic filing. Recently, several rulemakings have been concluded concerning agreements, related monitoring reports and information form, and a new form FMC-78 (NVOCC Service Arrangement Registration). While the Commission is now in the position to make these collections available for electronic filing, it is not the case with the FMC-18 and FMC-48, which are still under program review and thus not available for IT automation. The FMC-83 and the new FMC-78 are linked to the SERVCON system which was recently brought in house and which will be replaced with a new updated system during the second quarter of FY 2005. At that time, the Commission will be able to address the electronic filing of those two forms. In sum, given the above exceptions, the Commission considers itself to be in compliance with GPEA.

This section reflects the goal from our FY 2003 Annual Performance Plan which we reflected in our FY 2003 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address this goal.

Performance Goal 1 (Operational and Administrative Program Activity)

Ensure that an effective agency-wide security program that complies with the Government Information Security Reform Act ("GISRA") is in place by 6/30/03. The program must provide for: appropriate management controls and risk management; all necessary contingency planning; the physical security of all equipment; security awareness training for agency employees; and appropriate documentation of all procedures and system operations.

Progress: GISRA has now been replaced by the FISMA. This goal essentially has been met with the establishment of a method to track and correct all network security weaknesses, the development of procedures for securing all equipment, the establishment of annual security awareness training for all staff, the establishment of an interim continuity of operations plan, development of documentation to ensure management controls and to document essential procedures, and the hiring of a full-time network security officer.

Performance Goal 3 (Certification and Licensing Program Activity)

Enhance informal complaint database to include more specific details on type of complaints against cruise operators.

Progress: The informal complaint database is used to log in all new cases, assign them to appropriate staff, and ensure that appropriate acknowledgments and other follow-up activities are accomplished. Efforts to redesign the database and develop additional queries were initiated, but with a determination to upgrade Commission IT capabilities, these efforts were delayed until the larger IT issues were resolved. However, we continue to make progress toward development of an operational system that all staff members can use on a daily basis and that other agency organizational components can utilize to carry out their duties.

Performance Goal 1 (Trade Analysis Program Activity)

By 12/31/02, further develop and apply updated ocean carrier constructive costs benchmark to be taken into account in analyses of controlled carrier rate activity under section 9 of the 1984 Act, as amended by OSRA.

Progress: This performance goal has been partially completed. As reported in the Commission's Annual Program Performance Report for FY 2003, significant progress was made researching data available to develop an ocean common carrier constructive costs benchmark that could be considered in the Commission's analyses of controlled carrier rate activity. During FY 2004, the staff prepared a proposed revised controlled carrier monitoring program that included a suggested methodology for deriving and validating the constructive costs of a controlled carrier. Due to significant changes late in FY 2004 regarding carriers that are classified as controlled, the staff believes that it is now necessary to re-examine its proposals to ensure these developments are accounted for and appropriately reflected in the proposed program.