

Office of Inspector General

**Semiannual Report to Congress
Covering the Period**

April 1, 2013 – September 30, 2013



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 31, 2013

Office of Inspector General

Dear Chairman Cordero and Commissioners:

The attached report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. It summarizes the activities of the Office of Inspector General (“OIG”) for the period April 1, 2013 to September 30, 2013. The Act requires that you transmit the report to the appropriate Congressional committees within 30 days of receipt. Your transmittal should also include any comments you consider appropriate and other statistical tables and reports required by law.

It has been a real pleasure to serve as your Interim Inspector General (IG) since early August 2013. I have enjoyed meeting the fine staff of the FMC and learning about the critical mission of the agency overseeing the international ocean transportation system on behalf of the American public. Based on my discussions with the Commission and an understanding of their IG recruitment efforts, I am encouraged that a permanent IG will be in place very soon. Until that time, I look forward to continuing to work with you and the Commissioners in our ongoing efforts to promote economy and efficiency in agency programs. Finally, I would like to express my gratitude to the FMC OIG staff for their hard work and dedication to the work and mission of the FMC OIG, as well as their untiring assistance to me, during this trying transitional period.

Respectfully submitted,

/Jonathan Hatfield/
Interim Inspector General

Enclosure

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EXECUTIVE SUMMARY

This Semiannual Report summarizes the activities and accomplishments of the Federal Maritime Commission (“FMC” or “Commission”), Office of Inspector General (“OIG”) for the period April 1, 2013 through September 30, 2013. The most significant activities of the OIG during the second half of Fiscal Year (“FY”) 2013 are noted below. Additional details pertaining to each activity can be found in subsequent sections of this report.

The FMC OIG has been without a permanent Inspector General since January 2013. During this period, the FMC OIG has had two Interim Inspectors General, each generally working one or two days per-week. Throughout their tenure with the FMC, the Interim Inspectors General have held concurrent positions in other OIG offices. Between January 24, 2013 and August 9, 2013, through a series of agreements, the Commission designated Dana Rooney-Fisher, the Inspector General for the Federal Labor Relations Authority (“FLRA”), to serve as Interim Inspector General, while a search for a permanent inspector general was conducted. Following the expiration of Ms. Rooney-Fisher’s last agreement, the Commission designated Jonathan Hatfield to serve as Interim Inspector General, while the permanent IG position remains open. Mr. Hatfield is concurrently serving as the Deputy Inspector General for the Federal Election Commission (“FEC”) OIG.

During this period, the OIG had three audits and one evaluation open. Specifically, as of the end of this reporting period, the OIG’s *Audit of Expenditures for Furnishing or Re-decorating Commissioners’ Offices* was in the report phase and the draft report is expected to be issued to FMC management shortly. In addition, the OIG’s annual financial statement audit and *Evaluation of the FMC’s Compliance with the Federal Information Security Management Act Fiscal Year (FY) 2013* were both in progress and expected to be completed by December 2013. Lastly, the OIG initiated an audit of the FMC’s physical security operations during this reporting period and this audit is expected to be completed in a future reporting period.

During this reporting period, the OIG received eight complaints, two of which reported similar allegations and one that duplicated a previous complaint. The eight complaints were received through the following methods: five anonymous contacts; one through the OIG’s main telephone line; one through the OIG’s hotline; and one by internal mail. The two similar

allegations were combined into one preliminary investigation, which later was converted into a formal investigation. The duplicate complaint was included in a matter that is already under an administrative investigation, after consulting with the Department of Justice regarding the allegations and receiving a declination to prosecute. The OIG began a preliminary investigation of one of the eight complaints and closed it due to lack of evidence. We forwarded two complaints to responsible officials outside of the OIG for appropriate action, if warranted. Lastly, the OIG commenced preliminary investigations on two of the complaints concerning allegations about FMC employees.

In addition to these activities, the OIG continued to work with the Commission's Office of the General Counsel to update and issue Commission Order 113, which pertains to OIG reporting responsibilities and protections for whistleblowers with access to classified information. The OIG also revised its own System of Records Notice and is working with the Commission to post the revisions, upon approval by the IG.

FEDERAL MARITIME COMMISSION

The FMC is an independent agency responsible for the regulation of ocean borne transportation in the foreign commerce of the United States. The principal statutes or statutory provisions administered by the Commission are: the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998; the Foreign Shipping Practices Act of 1988; and Section 19 of the Merchant Marine Act of 1920.

The FMC is headed by five commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. Although the majority of FMC personnel are located in Washington, D.C., the Commission also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston, and South Florida through area representatives who serve the major ports and transportation centers within their respective geographic areas. In addition, one at-large area representative operates from Washington, D.C.

OFFICE OF INSPECTOR GENERAL

The OIG was established in 1989 by the Inspector General Act of 1978, as amended (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an IG who

reports to the FMC Commissioners. To aid the FMC in accomplishing its mission, the OIG is provided three full-time positions.

The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of finding and preventing fraud, waste and abuse, and promoting economy, efficiency and effectiveness within the agency. The OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals, or entities contracting with, or obtaining benefits from, the agency. The Inspector General Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

The IG is required by law to prepare a report summarizing OIG audits and investigations during the immediately preceding six-month period. The report is sent to the FMC Commissioners, the President of the Senate, the Speaker of the House and FMC's appropriating and authorizing committees. This dual reporting requirement helps to ensure the independence of the OIG.

OFFICE OF INSPECTOR GENERAL ACTIVITIES

On-going Audits and Evaluations

Audit of Expenditures for Furnishing or Re-decorating Commissioners' Offices. The OIG decided to perform this review after the FMC received a request, on May 9, 2012, from the Committee on Oversight and Government Reform to provide a complete account for all purchases made for the previous Chairman. The objectives of the audit were to determine whether the Commission complies with applicable laws and regulations regarding expenses associated with furnishing, redecorating, or making improvements to Commissioners' offices. Specifically, we performed this review to determine whether the Commissioners stayed within their \$5,000 statutory spending limit and to determine whether these expenses are recorded and tracked during the term, reappointment or hold over of office for each Presidential-appointee.

The OIG staff completed the audit fieldwork and the Federal Trade Commission ("FTC") OIG independently referenced the report. The audit workpapers and draft report are currently under OIG management review and the final report is expected to be issued to FMC management during the next semiannual reporting period.

Evaluation of FMC's Compliance with the Federal Information Security Management Act FY 2013. The objectives of the independent evaluation of the FMC's information security program are to evaluate its security posture by assessing compliance with the Federal Information Security Management Act and related information security policies, procedures, standards, and guidelines. The scope of this task includes the FMC network and applications housing service contracts, tariff location filings, and FMC license applications. The OIG also plans to perform a network scan to identify potential system vulnerabilities and assess management actions to implement prior-year recommendations.

Independent Auditor's Report of FMC's FY 2013 Financial Statements. The audit objectives are to opine on whether the FMC's FY 2013 financial statements follow U.S. Generally Accepted Accounting Principles and present fairly the financial position of the agency. The OIG also will review internal controls over financial reporting and agency compliance with laws and regulations. The statements to be audited are the Balance Sheets as of September 30, 2013 and 2012, and the related Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources and Statements of Custodial Activity.

Audit of FMC's Physical Security – Datawatch. This audit was incorporated into the OIG's 2013 annual audit plan and was initiated on November 8, 2012; however, with the press of other OIG activities, it was delayed. The OIG re-initiated the review in August 2013, with the objectives to determine the effectiveness of the Datawatch physical security system.

Investigations

The Inspector General Act of 1978, as amended, provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste and abuse occurring within FMC programs and operations by employees or contractors. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies and the general public.

During this reporting period, the OIG received eight complaints, two of which reported similar allegations and one that duplicated a previous complaint. The eight complaints were received through the following methods: five anonymous contacts; one through the OIG's main telephone line; one through the OIG's hotline; and one by internal mail. The two similar

allegations were combined into one preliminary investigation, which later was converted into a formal investigation. The duplicate complaint was included in a matter that is already under an administrative investigation, after consulting with the Department of Justice regarding the allegations and receiving a declination to prosecute. The OIG began a preliminary investigation of one of the eight complaints and closed it due to lack of evidence. We forwarded two complaints to responsible officials outside of the OIG for appropriate action, if warranted. Lastly, the OIG commenced preliminary investigations on two of the complaints concerning allegations about FMC employees.

Other Activities

Peer Review

Federal offices of inspectors general are required by the IG Act to have an audit peer review performed once every three years. These reviews are to be performed only by Federal auditors. A committee of the Council of Inspectors General on Integrity and Efficiency (CIGIE) schedules the review to ensure that resources are available to perform the review and that OIGs do not conduct reciprocal reviews.

The objectives of a peer review are to determine, for the audit function, whether an effective quality control system has been established in the office and if policies, procedures and applicable government auditing standards are being followed.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, requires federal offices of inspectors general to include in their semiannual reports to Congress an appendix containing the results of any peer review conducted by another OIG during the reporting period, or, if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another OIG.

The Postal Rate Commission OIG completed a peer review of the FMC OIG and issued a report in a previous reporting period, on March 28, 2013. The peer review was conducted for the period October 1, 2009 through September 30, 2012. The report has a rating of pass and is available on the FMC OIG website. The system review report included no recommendations.

Memorandum of Understandings

The FEC OIG signed a Memorandum of Understanding (“MOU”) with the Commission under which the FEC’s Deputy Inspector General serves as the Commission’s Interim Inspector General while the IG position remains open.

Prior to the current MOU, the FLRA signed a series of MOUs with the Commission, under which the FLRA’s Inspector General acted as the Commission’s Interim Inspector General.

The FTC OIG and FMC OIG signed a MOU during this reporting period to provide independent referencing of each office’s respective audit/evaluation reports.

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the OIG routinely reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed legislation or regulation: (1) impacts the economy and efficiency of FMC programs and operations; and (2) contains adequate internal controls to prevent and detect fraud and abuse. However, the OIG has revised its own System of Records Notice and is working with the Commission to post the revisions, upon approval by the IG.

Review of FMC Policies

During this semiannual period, the OIG continued to work with the agency’s Office of the General Counsel to revise Commission Order 113, which pertains to OIG reporting responsibilities and protections for whistleblowers with access to classified information.

Council of Inspectors General on Integrity and Efficiency Activities

The Council of Inspectors General on Integrity and Efficiency (“CIGIE”) was established by law as an independent entity by the Inspector General Reform Act of 2008 (P.L. 110-409) to:

- address integrity, economy and effectiveness issues that transcend individual government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Office of Inspectors General.

The CIGIE is comprised of all inspectors general that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads -- designated federal entities. The FMC OIG remains active in CIGIE operations. Specifically, the Interim Inspector General is a member of CIGIE and participates in the monthly CIGIE meetings. The Assistant Inspector General for Audits participates in Federal Audit Executive Council (“FAEC”) activities. The FAEC is comprised of senior audit staff from agency OIGs that discuss and coordinate issues affecting the federal audit community -- with special emphasis on audit policy and operations of common interest to FAEC members. The Counsel to the Inspector General participates in the Council of Counsels to the Inspector General (“CCIG”) activities. The CCIG consists of senior counsel from agency OIGs who discuss various legal issues that affect the OIG community. As Chief Investigator, the OIG Counsel also attends the Assistant Inspector General for Investigations Committee quarterly meetings, where issues concerning OIG investigative matters are discussed.

**SUMMARY OF INSPECTOR GENERAL
REPORTING REQUIREMENTS**

IG Act Reference	Reporting Requirement	Pages
Section 4(a)(2)	Review of legislation and regulations	6
Section 5(a)(1)	Significant problems, abuses and deficiencies	None
Section 5(a)(2)	Recommendations with respect to significant problems, abuses, or deficiencies	None
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been completed	9
Section 5(a)(4)	Matters referred to prosecutive authorities	5
Section 5(a)(5)	Summary of instances where information was refused	None
Section 5(a)(6)	List of audit reports by subject matter	None
Section 5(a)(7)	Summary of each particularly significant report	None
Section 5(a)(8)	Statistical table Reports with questioned costs	10
Section 5(a)(9)	Statistical table recommendations that funds be put to better use	11
Section 5(a)(10)	Summary of each audit issued before this reporting period for which no management decision was made by the end of the reporting period	None
Section 5(a)(11)	Description and explanation of significant revised management decisions	None
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	None
Section 5(a)(13)	Information under Section 5(b) of the Federal Management Improvement Act (FFMIA) of 1996	None
Section 5(a)(14)	Peer Review Activity	5

**TABLE I – Summary of Audit Reports with
Corrective Actions Outstanding for More than 1 Year**

Report Title	Report Number	Issue Date	Recommendations		
			Number	Open	Closed
FY 2011 Implementation of FISMA	A12-02	1/17/12	20	9	11
Review of FMC's User Fee Calculations	OR10-03	5/27/10	1	1	0
FY 2009 Implementation of FISMA	A10-02	1/28/10	19	1	18

TABLE II - Listing of Audit Reports Issued

Report Number	Issue Date	Report Title	Questioned Costs	Unsupported Costs	Funds Put to Better Use
NONE			\$0	\$0	\$0

TABLE III

Reports with Questioned Costs

	Number of Reports	Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0	\$0
B. Which were issued during the reporting period.	0	\$0	\$0
Subtotal (A + B)	0	\$0	\$0
C. For which a management decision was made during the reporting period.	0	\$0	\$0
(i) dollar value of disallowed costs; and	0	\$0	\$0
(ii) dollar value of costs not disallowed	0	\$0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0	\$0
E. Reports for which no management decision was made within six months of issuance.	0	\$0	\$0

TABLE IV**Recommendations That Funds Be Put To Better Use**

	Number of Reports	Dollar Value
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0
B. Which were issued during the reporting period.	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made during the reporting period.	0	\$0
(i) dollar value of recommendations that were agreed to by management; and	0	\$0
(ii) dollar value of recommendations that were not agreed to by management	0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0
E. Reports for which no management decision was made within six months of issuance	0	\$0

Contacting the Office of Inspector General

Employees and the public are encouraged to contact the OIG regarding any incidents of possible waste, fraud or abuse occurring within FMC programs and operations. To report suspected wrongdoing, employees or the public may call the OIG Hotline on **(202) 523-5865**. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed to oig@fmc.gov or to <https://www2.fmc.gov/oigcomplaints/> (if the complainant wishes to remain anonymous). For general information and to speak with the OIG staff, the OIG main telephone number is **(202) 523-5863**.

HOTLINE COMPLAINTS

The success of the OIG mission to prevent fraud, waste and abuse depends on the cooperation of FMC employees and the public.

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR DIRECT LINE

(202) 523-5865

E-MAIL ADDRESS: OIG@FMC.GOV

OR

<https://www2.fmc.gov/oigcomplaints/>

TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:

**Federal Maritime Commission
Office of Inspector General
Room 1054
800 North Capitol Street, NW
Washington, DC 20573**

To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL AND YOU CAN BE ANONYMOUS

**HOWEVER, CALLERS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY
SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION**