



**FEDERAL MARITIME COMMISSION**

**2003**

**MANAGEMENT DISCUSSION AND ANALYSIS**

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## A MESSAGE FROM THE CHAIRMAN



It is my pleasure to present the Federal Maritime Commission's Management Discussion and Analysis for FY 2003.

Since its inception in 1916, the Commission and its predecessor agencies have effectively administered Congress's directives for the ocean transportation industry. Our long-standing expertise and experience have been recognized by Congress, as well as by the industry the Commission oversees, courts, and other Nations. Working with the ocean shipping industry, we have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports.

The FMC's mission generally is to foster an equitable, secure, and market-driven ocean transportation system. We do so by addressing the disruptive activities, influences, or non-market barriers which can adversely affect U.S. oceanborne trade. Our mandate is to help remove impediments to fair competition and thereby allow the industry to conduct business as effectively as possible.

The maritime industry and the government must work together to balance the need for secure and high quality shipping services with the goal of an efficient and economical transportation system. Each industry participant has an important role to play in this effort.

The Commission performs numerous statutorily mandated business activities within a modest budget. Accordingly, enhancing management accountability for expenditures has been a high priority during my tenure as Chairman and administrative head of the agency. The Commission retains a remarkable group of dedicated and skilled people who rigorously pursue our goals and objectives and contribute to our ongoing success. The reward for our efforts is more effective government practices and improved services for the public and our stakeholders.

Sincerely,

A handwritten signature in blue ink that reads "Steven R. Blust". The signature is written in a cursive, flowing style.

Steven R. Blust  
Chairman, Federal Maritime Commission

## Commission at a Glance

The Federal Maritime Commission was established as an independent regulatory agency by Reorganization Plan No. 7, effective August 12, 1961. Prior to that time, the Federal Maritime Board was responsible for both the regulation of ocean commerce and the promotion of the United States Merchant Marine. Under the reorganization plan, the shipping laws of the U.S. were separated into two categories -- regulatory and promotional. The newly created FMC was charged with the administration of the regulatory provisions of the shipping laws. The Commission is responsible for the regulation of ocean-borne transportation in the foreign commerce of the U.S. The passage of the Shipping Act of 1984 brought about a major change in the regulatory regime facing shipping companies operating in the U.S. foreign commerce. The subsequent passage of the Ocean Shipping Reform Act of 1998, with its deregulatory amendments and modifications to the 1984 Act, further signaled a significant paradigm shift in shipping regulation.

### Commission Functions

- Monitor activities of ocean common carriers, marine terminal operators, conferences, ports, and ocean transportation intermediaries (OTIs) who operate in the U.S. foreign commerce to ensure they maintain just and reasonable practices.
- Maintain a trade monitoring and enforcement program designed to assist regulated entities in achieving compliance, and to detect and appropriately remedy malpractices and violations set forth in section 10 of the 1984 Act.
- Monitor the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in the U.S.
- Enforce special regulatory requirements applicable to carriers owned or controlled by foreign governments.
- Process and review agreements and service contracts.
- Review common carriers' privately published tariff systems for accessibility and accuracy.
- Issue licenses to qualified OTIs in the U.S. and ensure all maintain evidence of financial responsibility.

- Ensure passenger vessel operators demonstrate adequate financial responsibility for casualty and non-performance.

### Principle Statutes or Statutory Provisions Administered by the Commission

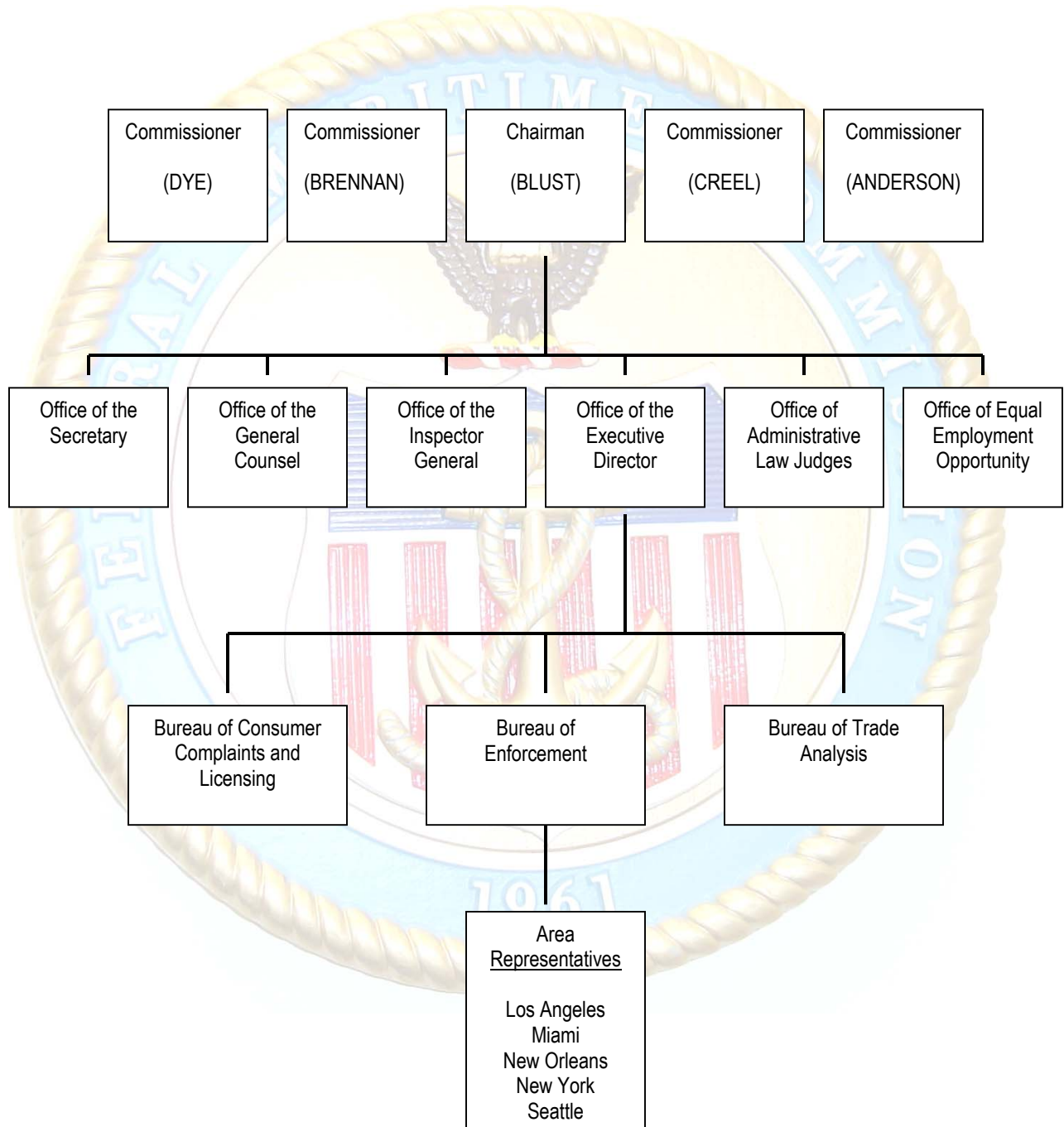
- The Shipping Act of 1984
- The Foreign Shipping Practices Act of 1988
- Section 19 of the Merchant Marine Act, 1920
- Public Law 89-777
- The Ocean Shipping Reform Act of 1998

### Current Picture

- **The Commission:** The Chairman and four Commissioners are appointed by the President with the advice and consent of the Senate.
- **Commission Employees:** The Commission has 130 full time employees, headquartered in Washington D.C. with area representatives in Los Angeles, New Orleans, Miami, Seattle, and New York.
- **Website:** The Commission Homepage can be found at [www.fmc.gov](http://www.fmc.gov)

# Federal Maritime Commission Organizational Chart

As of 09/30/03



## A Message from the CFO



I am pleased to present the Federal Maritime Commission's first ever Management Discussion and Analysis Report covering FY 2003 audited financial statements. The report reflects two major systems milestone accomplishments in FY 2003. The first was the conversion of the agency's accounting systems to an Internet based Joint Financial Management Improvement Program (JFMIP) approved accounting and procurement system hosted by the Department of Treasury's Bureau of Public Debt. This conversion electronically integrates the FMC's procurement and accounting systems and captures and disseminates financial information in a standardized format. The second milestone was the conversion of the Commission's personnel and payroll systems to the Department of Agriculture's National Finance Center system which is fed into the Bureau of Public Debt JFMIP accounting system. These conversions have enabled the agency to keep pace with the efficiency standards called for in the management of federal personnel, payroll, procurement and accounting systems.

While the Bureau of Public Debt operates a JFMIP-approved accounting system, the Commission's previous provider did not. However, even though granted a waiver by OMB, and with only one year's data able to be audited, the Commission determined to comply with the spirit of the Accountability of Tax Dollars Act and submit this report. Thus the accounting firm of Clifton Gunderson LLP, which audited our financial statements, has issued an opinion on the balance sheet only. For FY 2004, with two years of data in our JFMIP-approved accounting system, the auditor will be able to issue an opinion on all of the Commission's financial statements.

I am proud of the smooth transition to the new accounting and financial services provider that was accomplished by my staff and the staff of the Bureau of Public Debt. The effort was achieved in a short timeframe due to the diligence and professionalism of all involved. With the numerous benefits and increased flexibilities of the system operated by the Bureau of Public Debt, the Commission is now positioned to make better budget decisions for our future. The Commission looks forward to the challenge of achieving unqualified opinions for all financial statements in FY 2004 and in the years that follow.

Sincerely,

A handwritten signature in black ink that reads "Austin Schmitt". The signature is written in a cursive, flowing style.

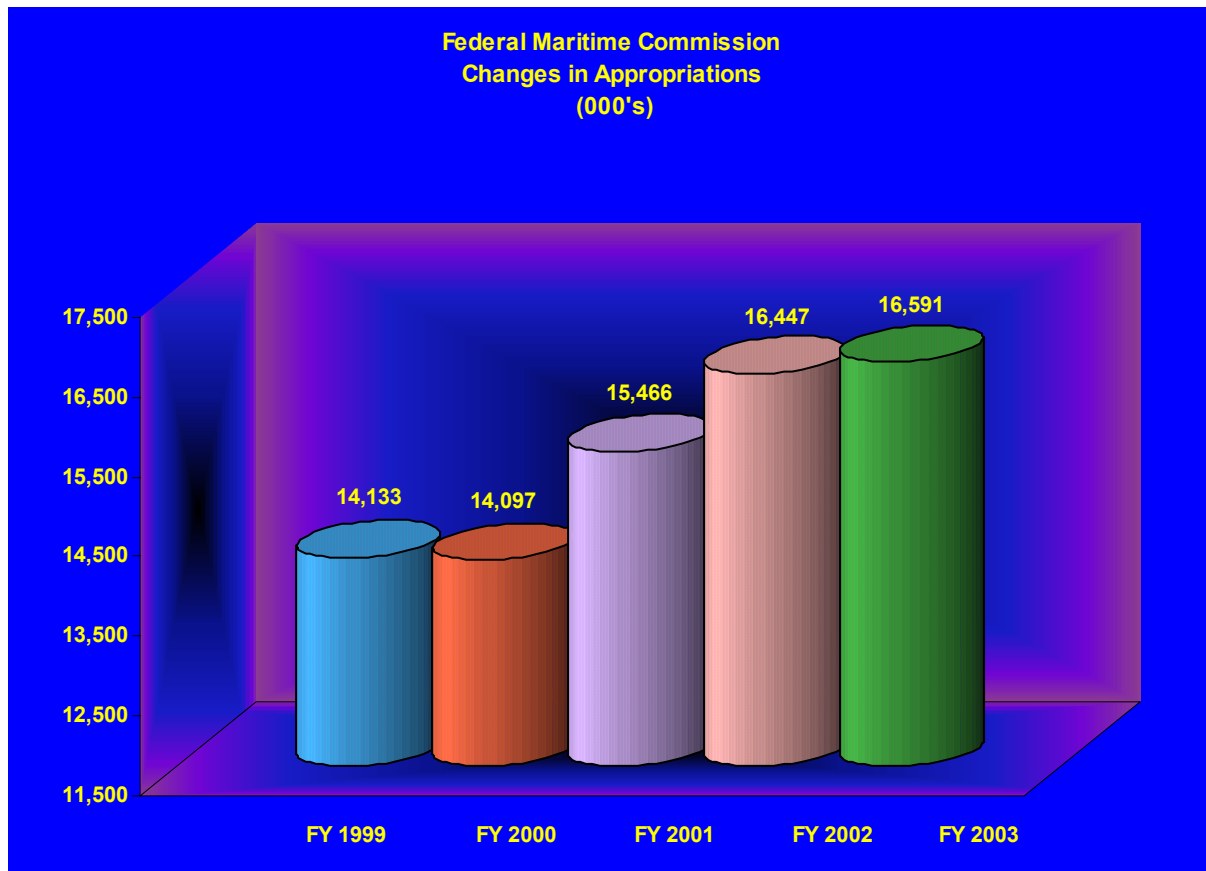
Austin Schmitt  
Chief Financial Officer, Federal Maritime Commission

## FINANCE IN FOCUS

The Federal Maritime Commission (“FMC”) receives funding through an annual (single year) appropriation. The FMC is not authorized to use any multi-year funding, no-year funding, revolving funding, or borrowing funds. The FMC does not engage in grants, loans, or securities. The funding the FMC receives cannot be rolled over, or used in subsequent fiscal years. The FMC, like all Government entities/agencies, maintains records for the current, as well as the prior four fiscal years as required by law. On September 30<sup>th</sup> of each calendar year, the financial books are closed for any new activity.



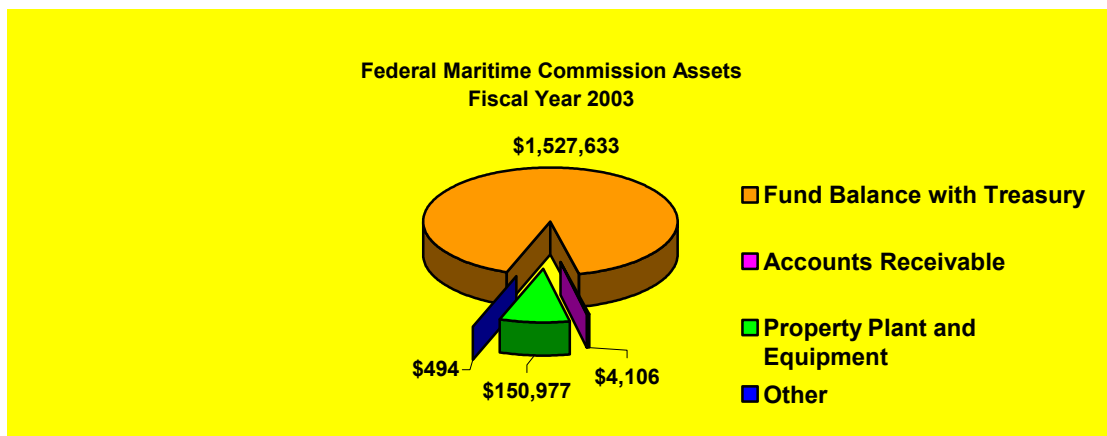
The average increase in appropriations received by the FMC from one fiscal year to the next is 4.2%. As depicted in the following graph, from FY99 to FY00 the FMC received a .025% reduction in appropriations, 9.71% increase over FY00 in FY01, 6.34% increase over FY01 in FY02, and lastly a .88% increase over FY02 in FY03.



## ASSETS

The assets the Federal Maritime Commission is entrusted with are a combination of Intragovernmental funds (fund balance with Treasury), Intragovernmental accounts receivable resulting from reimbursable agreements with other Governmental agencies, general property plant and equipment (capitalized, depreciable assets), as well as accounts receivable from non-Governmental entities. The assets itemized on the Consolidated Balance Sheet are a summation of the four fiscal years prior to, and the reported year. A brief description of asset types follows:

- Fund Balance with Treasury is the remaining balance of the appropriation received by the FMC. For FY03 the balances contain FY03 as well as FY99, FY00, FY01, and FY02.
- The Intragovernmental accounts receivable, or reimbursable agreements, are vehicles for one Government agency to receive reimbursement from another agency for services. These resources, when received, will become available for the FMC's use.
- General property plant and equipment are those assets that make up the capitalized, and depreciable assets belonging to the FMC. The FMC uses a straight line, five-year depreciation schedule for all capitalized assets. The dollar value threshold for all capitalized assets is \$5,000.00.
- The non-Governmental accounts receivable represent monies owed to the FMC by the private sector. These entities are billed in accordance with the FMC's user fee schedule located on our web site for goods or services rendered. Although the receivables are considered an asset on the balance sheet, the FMC does not have the use of these funds. When payments are received the FMC deposits these funds to the General Fund of the U.S. Treasury.



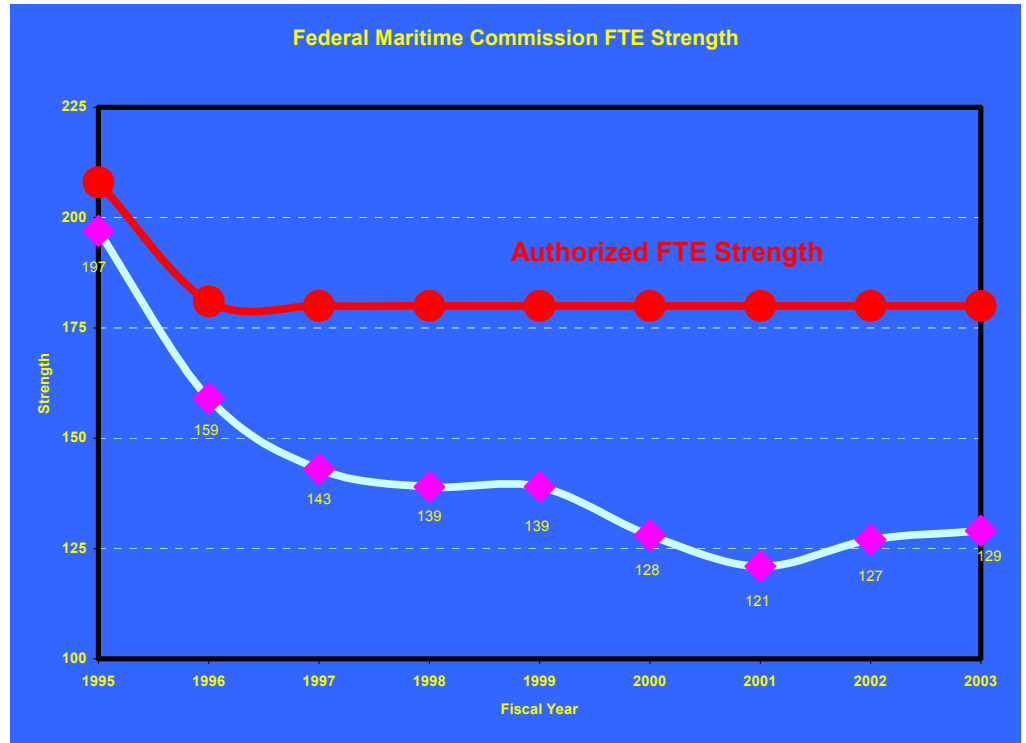


## PERSONNEL STRENGTH HISTORY

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

The Commission's organizational units consist of the Office of the Secretary; Office of the General Counsel; Office of the Inspector General; Office of Administrative Law Judges; Office of Equal Employment Opportunity; Office of the Executive Director; Bureau of Consumer Complaints and Licensing; Bureau of Enforcement; and Bureau of Trade Analysis. These offices and bureaus are responsible for the Commission's regulatory programs or provide administrative support.

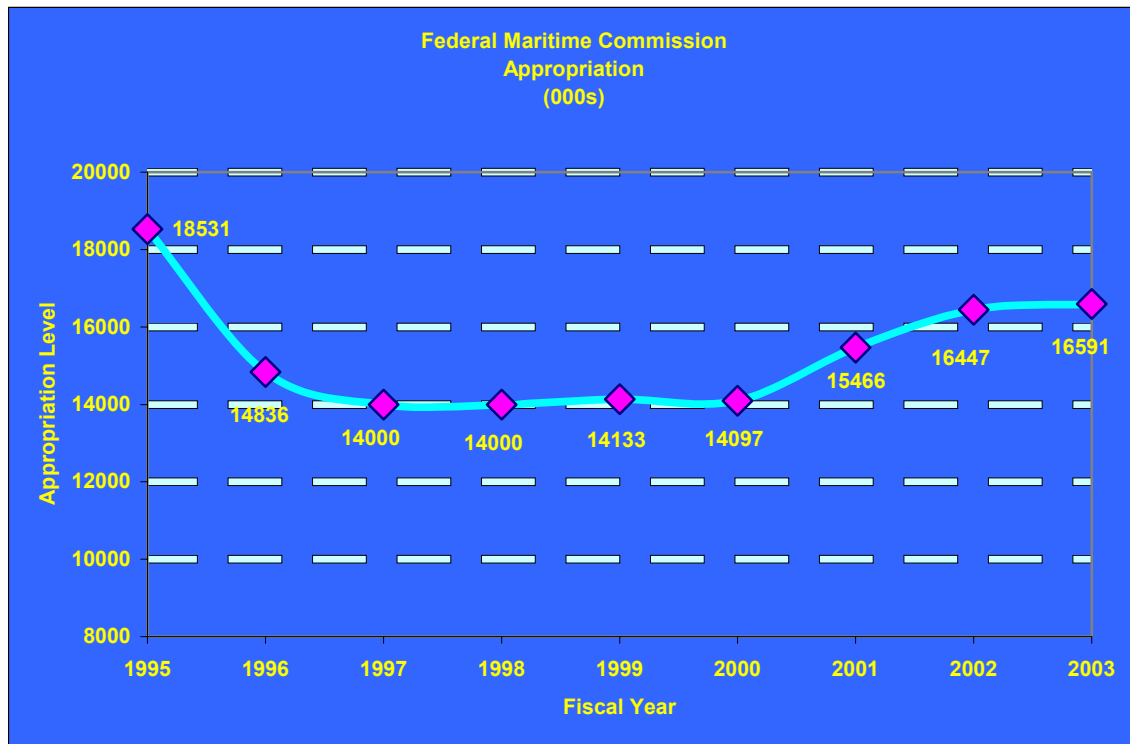
In recent fiscal years, the Commission was authorized a total of 180 full-time equivalent positions. Due to appropriation levels, the Commission has been required to maintain full time personnel levels much lower than authorized. The majority of the Commission's personnel are located in Washington, D.C., with area representatives in New York, New Orleans, Los Angeles, Miami and Seattle.



## APPROPRIATION HISTORY

Appropriations are expensed in three main categories: salaries and benefits, travel, and administrative expenses. Of the total appropriation, salaries and benefits average 73.9%, administrative expenses average 25.4%, and travel expenses average .7%.

The Commission's appropriation in FY95 was \$18,531,000. In FY96 the Commission experienced a considerable reduction in appropriations, with a funding level of \$14,836,000. Despite this 20% decrease in funding, the FMC lost no statutorily mandated programs or functions. To accommodate the



dramatically lower funding level, the FMC took a number of actions, including closing its field offices and taking reduction-in-force actions, affecting a number of employees.

After several fiscal years of near straight-line budgets, the Commission, working with OMB and the Congress, has achieved incrementally larger appropriations which have allowed the agency to re-establish a presence in major port cities and to conduct more outreach, as well as to carry out its statutory mission and to assist the maritime industry in achieving and maintaining compliance with statutory requirements.

## Strategic Focus and Program Performance

The Federal Maritime Commission is committed to its mission statement and strategic goals. In order to best accomplish these, the Commission is divided into seven program areas: Formal Proceedings, Equal Employment Opportunity, Inspector General, Operational and Administrative, Trade Analysis, Consumer Complaints and Licensing, and Enforcement. Below are charts showing the budgeted amount and number of FTEs per program area. The following section outlines the Commission's Mission Statement, Strategic Goals, highlights of FY2003, and performance breakdown by program.

Program By Activities	2003 Cost (\$000)	2003 Actual FTE
Formal Proceedings	4,431	31
EEO	136	1
Inspector General	443	3
Operational and Administrative	3,579	26
Trade Analysis	2,812	25
Consumer Complaints and Licensing	2,455	23
Enforcement	2,735	20
Total Direct Program	16,591	129



## MISSION STATEMENT

*Advance the Nation's interests by fostering an efficient, competitive, secure, market-driven, and nondiscriminatory ocean transportation system that is free of unfair foreign maritime trade practices and market-distorting activities.*

## VISION STATEMENT

*The FMC will fulfill a key leadership role in international ocean trade, be responsive to stakeholder needs, support national maritime security initiatives, and effectively utilize information technology.*

## Looking Ahead: Strategic Goals

OSRA and the events of September 11<sup>th</sup>, 2001, have had significant impacts on the ocean shipping industry. As the industry continues to restructure its operations to adapt to 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 focus our energies and efforts on this mission, and assure that the agency operates in a manner best suited to accomplish it with a minimum of government intervention and regulatory cost. Effective use of emerging information technologies facilitates our efforts. Our actions also must encourage the development of a sound U.S.-flag liner fleet. Accordingly, the FMC established the following five strategic goals to carry out its statutory mandates:

“The FMC’s mission is generally to ensure that fair competition exists in the ocean transportation industry... Our mandate is to help remove impediments to fair competition and thereby allow [the industry] to conduct business as effectively as possible.”

~ Steven R. Blust,  
Chairman

- 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.

## Linkage Between Strategic Goals and Mission Statement

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.

**Strategic Goal #1:** 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.

**Strategic Goal #2:** Strategic Goal 2 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 address this goal particularly by interacting with all sectors of the industry, and by vigilant monitoring of ongoing commercial activities.

**Strategic Goal #3:** 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, competitive, market-driven ocean transportation system.

**Strategic Goal #4:** Strategic Goal 4 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. 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.

**Strategic Goal #5:** Strategic Goal 5 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.



## FY 2003 Highlights

- Entered into a settlement agreement with the major ocean carrier agreements and their members who serve the inbound waterborne U.S. trades with Asia, resolving concerns investigated in Fact Finding Investigation No. 25- *Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season*. The settlement improved the competitive environment in the Transpacific trades through immediate structural changes in the TSA agreement which end problematic carrier practices in these trades.
- Continued to monitor potentially restrictive shipping practices of the Governments of the People's Republic of China ("PRC") and of Japan.
- Approved a settlement agreement which resolved two docketed proceedings involving tug practices at Canaveral Port Authority ("CPA").
- Filed, with the Department of Justice, a joint brief with the United States Court of Appeals for the District of Columbia Circuit in the proceeding *New Orleans Stevedoring Co. v. Federal Maritime Commission and United States of America*. This case was an appeal from the Commission's determination to deny the complaint in Docket No. 00-11, *New Orleans Stevedoring Company v. Board of Commissioners of the Port of New Orleans*. On September 29, 2003, the U.S. Court of Appeals for the District of Columbia Circuit unanimously affirmed the Commission's decision.
- Initiated a series of informational seminars conducted by the agency's Area Representatives and other personnel at strategic locations around the country.
- Participated in several groups that were formed to address maritime homeland security issues post-September 11, 2001.
- Conducted an economic analysis of an amendment to the Trans-Atlantic Conference Agreement which authorized the parties temporarily to withdraw vessels from service during a specified period of time.
- Assisted the public in matters relating to claims for refunds for non-performance of transportation after Regal Cruises, Inc., a passenger cruise line, ceased operations.
- Continued development of an electronic version of the Commission's Form FMC-18 to accept applications for OTI licenses via the Internet.

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## Looking Forward

- Several petitions were filed late In FY03 seeking regulatory changes which, among other things, would permit NVOCCs to enter into confidential contracts with their customers, as well as relieve OTIs from the requirement to publish tariffs. The agency is in the process of reviewing comments and evaluating the merits of these petitions for appropriate action.

## 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.

## Office of the Commissioners

Five Commissioners are appointed by the President with the advice and consent of the Senate. The President designates one of the Commissioners to serve as Chairman. 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 deciding cases in which parties must have the opportunity to be heard. During FY03, the Commission issued 22 final decisions in formal proceedings. Of these, 15 were docketed proceedings and 7 involved special docket applications. The Commission also issues rules to implement the statutes it administers.

### 2003 Decisions

The following is representative of the matters decided by the Commission:

- ***Canaveral Port Authority - Possible Violations of Section 10(b)(10), Unreasonable Refusal to Deal or Negotiate (Order to Show Cause) [Docket No. 02-02], 29 S.R.R. 484 (February 25, 2002)***- The Commission approved a settlement on July 8, 2003, after both the Commission in Docket No. 02-02 and the Administrative Law Judge in Docket No. 02-03 found Canaveral Port authority (CPA) violated various sections of the Shipping Act relating to CPA's operation of a tug franchise system at Port Canaveral that resulted in one tug provider having sole franchise for the port. The settlement agreement provides that (1) CPA shall pay a civil penalty, (2) CPA shall eliminate the tug franchise system and shall permit vessels calling at the port to select the tug company of their choice, provided that the tug company has obtained and maintains a towing permit from CPA based upon evidence of certain insurance and payment of permit fees, and (3) both proceedings shall be discontinued and any further claims by the Commission based on the violations found in Docket No.'s 02-02 and 02-03 will be barred.

### 2003 Rulemakings

The following are representative of rulemakings addressed by the Commission:

- ***The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 [Docket No. 99-13], (August 3, 1999)***. The Commission previously had issued a Notice of Inquiry to seek comments from interested parties regarding possible changes to the Commission's rules governing the content of ocean common carrier and marine terminal operator agreements that are filed with the Commission in accordance with the 1984 Act. Comments were received from carriers, shippers, and other interested parties. The Commission currently is reviewing this matter to determine what further action may be warranted.

- ***Passenger Vessel Financial Responsibility [Docket No. 02-15] (October 31, 2002)***. The Commission issued a Notice of Proposed Rulemaking to amend its rules regarding establishment of passenger vessel responsibility under Public Law 89-777. Comments were received from passenger vessel operators, associations, travel agents, and other interested persons. A hearing on the proposed rule was held in May 2003. The Commission currently is reviewing comments on this matter.



## Other Activity

The following are representative of other significant matters completed by the Commission in FY03:

• **Fact Finding Investigation No. 25 - Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season.** The Commission initiated a fact-finding proceeding in August 2002, to investigate whether service contract practices of the Transpacific Stabilization Agreement ("TSA") during negotiation of service contracts for 2002/2003 violated the anti-discrimination provisions and other prohibited acts of the 1984 Act. The Commission also issued two Section 15 orders to secure additional information on the activities of TSA and several related agreements. The Commission entered into a settlement agreement with TSA on September 11, 2003, which brought about structural changes in the TSA agreement, payment in lieu of civil penalty, and termination of the related agreements. Changes will result in increased carrier competition in the largest U.S. trade lane, as well as significantly increasing shipper options in the Indian subcontinent/U.S. trade lane.

• **Petition No. P2-02-Petition of the South Florida NVOCC-NAOCC Association, Inc. for an Investigation of the Service Contracting and Rating Practices of the Caribbean Shipowners Association.** In January, 2003, the Commission denied the petition to initiate an investigation into whether certain activities of CSA constitute a violation of the Shipping Act. The Petitioner, a trade association representing OTIs, alleged that CSA and its members "engaged in practices intentionally and unlawfully harmful to OTIs". The Petitioner further maintained that CSA's actions caused a reduction of competition and transportation services in the trades served by CSA's members, as well as produced unreasonable increases in transportation costs. The Commission found that CSA had not established sufficient facts to warrant the initiation of an investigation.



## Office of the Secretary

The Office of the Secretary serves as the focal point for all matters submitted to and emanating from the Commission. Accordingly, 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 on these agenda and notation matters; receiving and processing formal and informal complaints involving violations of the shipping statutes and other applicable laws; receiving and processing special docket applications and applications to correct clerical or administrative errors in service contracts; issuing orders and notices of actions of the Commission; maintaining official files and records of all formal proceedings; receiving all communications, petitions, notices, pleadings, briefs, or other legal instruments in regulatory and quasi-judicial proceedings and subpoenas served on the Commission or members thereof; administering the Freedom of Information, Government in the Sunshine, and Privacy Acts; responding to information requests from the maritime industry, the public, and Commission staff; issuing publications and authenticating instruments and documents of the Commission; compiling and publishing Commission decisions; maintaining and promulgating official copies of the Commission's regulations; and maintaining the Commission's Library. The Secretary's Office also participates in the implementation of legislative changes to the shipping statutes.

In FY03, the Office of the Secretary processed 22 docketed proceedings, 8 non-docketed proceedings, 1 service contract correction application, 130 agenda items, 142 pages of minutes, 257 Federal Register Notices, 59 FOIA requests, and 12 certifications.

## 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 recommending and preparing final decisions, orders, and regulations for Commission adoption. In addition, the Office of the General Counsel 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, Congress, and other government agencies and administers the Commission's international affairs program.

### International Affairs Program

- In FY03 General Counsel produced 34 reports, policy papers, briefings, or controlled carrier recommendations, 15 speeches, articles, or presentations, 20 instances of interagency and international group participation, and responded to 225 requests for information.
- In FY03, the Commission continued to monitor potentially restrictive shipping practices of the Governments of Japan and the People's Republic of China ("PRC").

### 2003 Legislative Activity

- During FY03, 115 bills, proposals and Congressional inquiries were referred to the Office of the General Counsel for comment. The Office prepared and coordinated testimony for one Congressional hearing. The Office also worked closely with Congressional staffs on proposed legislation that affected the Commission. The Office also collaborated with the Office of General Counsel of the U.S. Department of Transportation to prepare a codification of title 46 of the U.S. Code as it relates to shipping.

## Office Of Administrative Law Judges

Administrative Law Judges ("ALJs") 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 prehearing 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.

In FY03, the ALJs handled 12 formal proceedings.

### 2003 Litigation

- The General Counsel represents the Commission in litigation before courts and other administrative agencies. The following is representative of matters litigated by the Office.

- ***New Orleans Stevedoring Co. v. Federal Maritime Commission and United States of America, D.C. Cir. No. 02-1259.*** NOS sought review of the Commission's order in Docket No. 00-11 issued on June 28, 2002, dismissing its complaint against the Port. NOS had alleged that the Port had violated the Shipping Act by unreasonably refusing to deal or negotiate and by providing an unreasonable preference or advantage. The Commission participated in oral argument before the Court of Appeals, and the court affirmed the Commission's decision on September 29<sup>th</sup>, 2003.



## Operational and Administrative Program

### Office of the Executive Director

The Executive Director is the senior staff official, responsible to the Chairman for the management and coordination of Commission programs under the Bureau of Enforcement, the Bureau of Trade Analysis, and the Bureau of Consumer Complaints and Licensing, as well as providing administrative guidance to all other program areas within the Commission. The Executive Director is the Commission's Chief Operating Officer, Senior Procurement Executive, and Audit Follow-up and Management (Internal) Controls Officer. The Deputy Executive Director serves as the agency's Chief Financial Officer ("CFO"), Competition Advocate, and is the representative, as Principal Management Official, to the Small Agency Council.

Program accomplishments are detailed in individual bureau and administrative office sections. In addition, the Operational and Administrative Program contains four additional offices overseen by the Executive Director. These are discussed further on page 30.

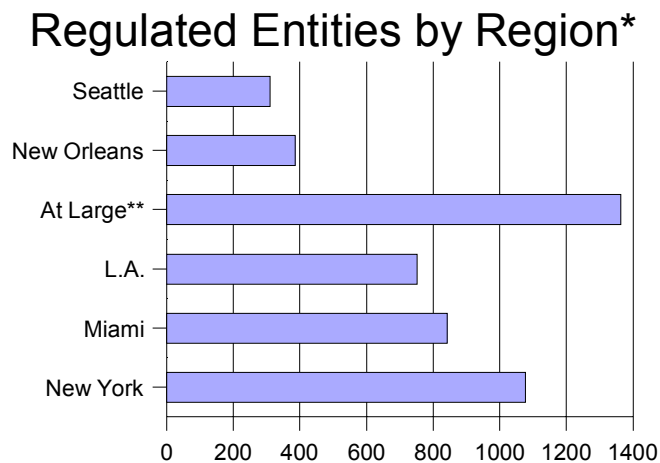


## Enforcement Program

The Bureau of Enforcement is the primary investigatory and prosecutorial arm of the Commission. Attorneys of the Bureau of Enforcement participate as trial counsel in formal adjudicatory proceedings. The Bureau also participates in formal complaint proceedings where intervention is permitted. Bureau attorneys serve as legal advisors to the Executive Director and other bureaus, and also may be designated Investigative Officers in nonadjudicatory fact finding proceedings. The Bureau monitors all other formal proceedings in order to identify major regulatory issues and to advise the Executive Director and the other bureaus. The Bureau also participates in the development of Commission rules and regulations. Under the direction of the General Counsel, attorneys from the Bureau also may participate in matters of court litigation to which the Commission is a party.

## Area Representatives

The Commission maintains a presence in Los Angeles, Miami, New Orleans, New York and Seattle through Area Representatives 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, Area Representatives represent the Commission within their jurisdictions, provide liaison between the Commission and the maritime industry and the shipping public, collect and analyze intelligence 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, plus handling informal complaints within each representative's area of responsibility. Two Area Representatives operate from Commission headquarters in an "at large" capacity, dealing with other U.S. regulated entities, foreign regulated entities, and assisting the other areas as necessary.



\* Seattle, New Orleans, and New York are covered by 1 Area Representative each; L.A., Miami, and the At Large are covered by 2 Area Representatives.

\*\* "At large" representatives are responsible for 391 U.S. regulated entities and 970 foreign regulated entities.

## 2003 Enforcement Activities

- At the beginning of FY03, 43 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 14 formal proceedings, and there were 83 matters pending which the Bureau was monitoring or

for which it was providing legal advice. During the fiscal year, 41 new enforcement actions were commenced; 37 were compromised and settled, administratively closed, or referred for formal proceedings; and 47 were pending resolution at fiscal year's end. Also, the Bureau participated in 6 new formal proceedings, 6 proceedings were completed, and 14 formal proceedings were pending at the end of the fiscal year. Additionally, 70 matters involving monitoring or legal advice were received during the fiscal year, 80 such matters were completed, and 73 were pending in the Bureau on September 30, 2003.

- During FY03, 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 enforcement action to address market-distorting activities such as various forms of secret rebates and absorptions, misdescriptions of commodities and misdeclarations or measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded non-vessel operating common carriers, and joint carrier activities outside of the authority of existing agreements or pursuant to unfiled agreements.

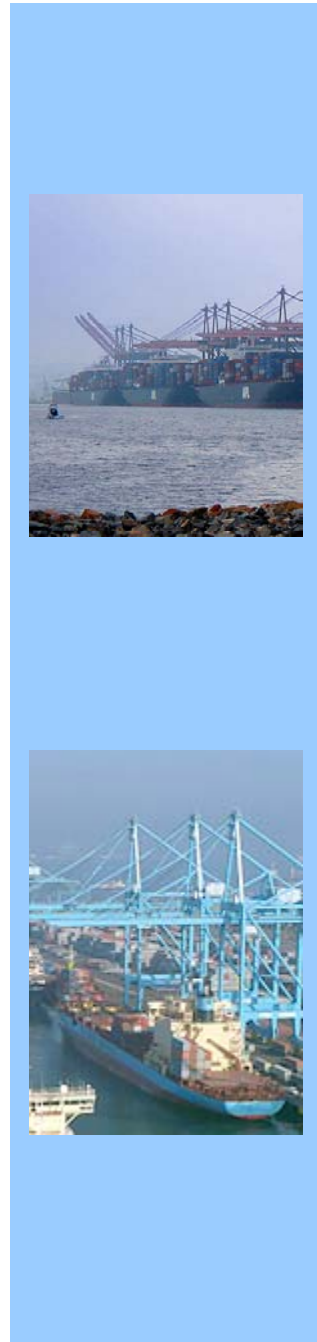
- Also during FY03, the Bureau participated in major fact finding investigations into alleged anticompetitive and discriminatory practices by certain Florida ports, and by certain ocean carriers in the inbound Transpacific trades from Asia. Both investigations resulted in settlement agreements that will enhance competition and curtail further discrimination.

- Interaction between the Commission's Area Representatives and U.S. Bureau of Customs and Border Protection ("Customs") with respect to the exchange of investigative information continues to be beneficial to both parties. Cooperation with Customs has expanded into several joint field operations to investigate entities suspected of violating both agencies' statutes or regulations. A revision of the Memorandum of Understanding to enhance cooperation between the agencies also is in progress. Cooperative efforts also involved local police and the Bureau of Citizenship and Immigration Services, when necessary.

### Looking Ahead: 2004

- In FY04, the Bureau will continue to pursue the elimination of market-distorting, fraudulent and anticompetitive practices.

- The Bureau will continue expanding its public outreach program to educate maritime transportation users and providers with regard to FMC statutes and regulations; and will coordinate the use of available database systems with other agencies or government groups engaged in homeland security to improve identification of entities providing and utilizing maritime transportation services.





## Trade Analysis Program

The Bureau of Trade Analysis ("BTA") reviews agreements and monitors the concerted activities of common carriers by water under the standards of the Shipping Act of 1984 ("1984 Act"). The Bureau also reviews and analyzes service contracts, monitors rates of government controlled carriers, reviews carrier published tariff systems under the accessibility and accuracy standards of the 1984 Act, and responds to inquiries or issues that arise concerning service contracts or tariffs. The Bureau also is responsible for competition oversight and market analysis, focusing on activity that is substantially anti-competitive and market distorting in violation of the 1984 Act. BTA strives to be an expert organization on the economics of international liner shipping and maritime agreements, especially with respect to issues of competition and unfair trade practices as they may affect the interests of the shipping public and U.S. international trade.

An integral part of BTA's responsibilities is the systematic surveillance of carrier activity and commercial conditions in the U.S. liner trades. Accordingly, BTA administers a variety of monitoring programs, and other research efforts, designed to apprise the Commission of current trade conditions, emerging commercial trends, and carrier pricing and service activities.

## Office of Agreements

The Bureau's agreement program activities consist of: (1) processing carrier and marine terminal agreement filings under the procedures of the 1984 Act as modified by OSRA; (2) conducting a comprehensive review and analysis of all pertinent legal and commercial facets of agreements to recommend appropriate action to the Commission on the disposition of filed agreements; (3) making appropriate recommendations on requests for a waiver of Information Form and Monitoring Report filing requirements; (4) maintaining the Commission's official agreement archives; and (5) maintaining an agreement database that contains pertinent information on each carrier and marine terminal agreement filed with the Commission.

### Looking Back: 2003

- During FY03, the Bureau received 197 carrier agreement filings and 34 terminal agreement filings. The Bureau also received and reviewed minutes of meetings and reports filed by various agreement parties.
- The Bureau received a complex series of four related vessel-sharing agreements in the U.S.-Australia/New Zealand trades involving six carriers taking space on 22 vessels operating on eastbound and westbound around-the-world services.
- In a significant consolidation of services, COSCO Container Lines, Hanjin Shipping, K-Line, Yang Ming Marine Transport, and Senator Lines incorporated their various services under several agreements into one alliance-type agreement.

- Two agreements to discuss maritime security issues were filed by marine terminal operators and ocean common carriers.

### Looking Ahead: 2004

- In the future, the Bureau will continue to examine parties claiming vessel-operating common carrier status to ensure compliance and to develop any information regarding company relationships which may become relevant to homeland security.
- In early FY04, the Bureau plans to complete the programming and the updating of various database links to provide direct public access to its library of carrier agreements via the agency's Homepage.

## Office of Economics and Competition Analysis

To keep the Commission apprised of current trade conditions, emerging commercial and economic trends, and the impact of regulations affecting 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 transportation service/cost impacts 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.

### Looking Back: 2003

- The Bureau received 457 sets of minutes and 312 monitoring reports in FY03.

- The Bureau produced a variety of reports and analyses, including an analysis and memorandum on rate levels of certain controlled carriers, an economic analysis of newly filed agreements under the 6(g) standard, and an economic analysis related to the Commission's Fact Finding Investigation No. 25.

- In addition, the Bureau worked on several other projects including preparing recommendations for proposed changes of rules governing the filing of minutes, information forms, and monitoring reports, conducting an economic analysis of an amendment to the Trans-Atlantic Conference Agreement, classifying agreements, and reviewing quarterly monitoring data.

### Looking Ahead: 2004

- The Bureau intends to focus on refining its controlled carrier monitoring program, implementing a more streamlined monitoring program, developing a prototype for a confidential, semi-annual Commission trade profile on economic and liner trade conditions in major U.S. trade lanes, and refining and updating a methodology to develop freight rate indices for major U.S. trade lanes.

- The Bureau will also continue to provide support and assistance to Commission investigative and enforcement initiatives, including providing expert testimony.

### U.S. Containerized Cargo Volumes\*

Year	Total TEU Imports	Annual Growth	Total TEU Exports	Annual Growth
1998	8,977,303	16.1%	6,380,478	-5.5%
1999	10,061,410	12.1%	6,363,131	-0.3%
2000	11,261,101	11.9%	6,832,463	7.4%
2001	11,362,010	0.9%	6,615,846	-3.2%
2002	13,150,259	15.7%	6,668,727	0.8%
2003**	13,942,892	6.0%	7,418,904	11.2%

\*data source: PIERS/JOURNAL OF COMMERCE, TRADE HORIZONS (WINTER 2001, SUMMER 2003)

\*\*2003 figures include forecasts for 2nd thru 4th quarters.

## Office of Service Contracts and Tariffs

The 1984 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. A concise statement of certain contract terms, i.e., commodity or commodities involved, minimum volume or portion, duration, and origin and destination port ranges, is required to be published in carriers' tariffs or conferences.

Service contracts offer an alternative to transportation under tariff terms. Contract flexibility enables carriers to tailor their transportation services to the specific commercial and operational needs of shippers. The confidentiality of contracts has spurred commercial innovations and brought greater efficiencies in the movement of cargo. Overall, the use of service contracts has continued to increase significantly due primarily to the efficiency, flexibility, and confidentiality of one-on-one negotiation of contracts between shippers and carriers.

The 1984 Act, as amended by OSRA, requires carriers and conferences to publish their tariffs in private electronic systems. 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 the private systems and reviews published tariff material for compliance with the 1984 Act's requirements. The Bureau continues to act upon applications for special permission to deviate from tariff publishing rules and regulations and will continue to recommend Commission action on specific problems and concerns regarding the publication of tariffs.

### Looking Back: 2003

- During FY03, the Bureau received 50,594 new service contracts and 211,000 contract amendments.
- 3,450 active/current tariff location addresses for carriers, conferences, and MTOs were posted on the Commission's homepage during FY03. A total of 1,200 inactive/cancelled tariff location addresses were posted as well.
- The Bureau continued to monitor accessibility to tariffs published in carriers' automated tariff systems ("CATS"). Adjustments were made to some CATS to bring them into compliance.

### Looking Ahead: 2004

- The Bureau will continue to participate in activities to help identify any service contract provisions which may be significant to maritime security concerns.





## SERVCON

Since May 1999, due to OSRA, service contracts are filed in electronic format in the service contract filing system SERVCON available via the Commission's website. The statements of essential terms are published in the carriers' automated tariff systems. The SERVCON system was designed to allow carriers, conferences and agreements to use off-the-shelf computer software such as Microsoft Word, WordPerfect, and others, to easily transmit their service contract filings to the Commission. Since the initial start-up of SERVCON, however, changes were implemented and service contract documents now can be filed into the system in more than one hundred different software formats. A more powerful search engine, AltaVista, was added. Most recently changes were implemented to permit the correction of an erroneous service contract filing by using the newly promulgated "Corrected Transmission" rule. More than 700,000 service contracts and amendments are hosted in SERVCON.



 Federal Maritime Commission  
Electronic Filing System

-  [File Contracts](#)
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 The New Federal  
Maritime Commission  
Electronic Filing System

**NOTICE: Alternative Access to SERVCON**  
To file service contracts you may access the system via the SERVCON link on the FMC's Homepage. However, if you are **not** able gain entrance via that link (<http://servcon.fmc.gov>), please go directly to:  
<https://198.87.233.132/>

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## Consumer Complaints and Licensing Program

The program is carried out by the Bureau of Consumer Complaints and Licensing ("BCCL"), which (1) licenses and regulates OTIs, including ocean freight forwarders and NVOCCs; (2) 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; (3) manages programs assuring financial responsibility of OTIs and passenger vessel operators ("PVOs"), by developing policies and guidelines, and analyzing financial documents; (4) responds to consumer and other inquiries and complaints, acting as an intermediary to resolve difficulties encountered by users of transportation services with respect to cruises and shipments of cargo; and (5) has responsibility for implementing the Commission's alternative dispute resolution ("ADR") program, arranging for and providing mediation and other dispute resolution services as appropriate. In carrying out these functions, the Bureau provides information and referrals in response to a wide array of informal inquiries, provides guidance with respect to licensing and bonding, and, where appropriate, advises inquiring persons about various means available to resolve complaints, both informally and formally. The Bureau emphasizes dispute resolution through informal and non-binding approaches in an effort to minimize litigation expenses and expedite resolution for those involved in a dispute.

## Office Of Transportation Intermediaries

The Office of Ocean Transportation Intermediaries is responsible for reviewing and approving applications for OTI licenses, and maintaining and updating records about licensees. Without a license, an OTI may not legally operate in the United States.

### Looking Back: 2003

- During FY03, the Commission received 350 new and 250 amended OTI applications. 230 new and 250 amended licenses were issued, 350 licenses were revoked, and 100 other OTI-related actions were taken. An additional 100 non-U.S.-based unlicensed NVOCC bonds were cancelled.

- As per a FY03 performance goal, an internal audit of the files of current OTI licensees and of non-licensed foreign NVOCCs was completed. The files were compared to the Regulated Persons Index and discrepancies were identified. This resulted in a significant number of surrendered licenses, revoked licenses, and additional applications.

- The Commission continues its effort at outreach to the industry to increase awareness of licensing and bonding requirements for OTIs.

### Looking Ahead: 2004

- In FY04, the Bureau will continue to work to achieve the target of 30 days from receipt to completion of license applications. The current backlog is being cleared and a concerted effort is being made to process current applications between 30 and 60 days after receipt of all appropriate documentation.



<b>Ocean Transportation Intermediary Statistics</b>					
	<b>Pre-OSRA</b>	<b>As of 9/30/00</b>	<b>As of 9/30/01</b>	<b>As of 9/30/02</b>	<b>As of 9/30/03</b>
<b>Freight Forwarders</b>	1,700	1,396	1,331	1,294	1,262
<b>NVOCCs</b>	2,200	1,287	1,251	1,298	1,317
<b>Freight Forwarder / NVOCC</b>	400	761	844	873	900
<b>Foreign NVOCC Unlicensed</b>	0 <sup>1</sup>	575	599	653	721
<b>Foreign NVOCC Licensed</b>	0 <sup>1</sup>	35	38	41	40
<b>TOTAL</b>	<b>4,300</b>	<b>4,054</b>	<b>4,063</b>	<b>4,159</b>	<b>4,240</b>

Since OSRA was enacted, the number of OTIs has increased, the largest increases occurring in non-U.S.-based NVOCCs and OTIs that provide both ocean freight forwarder and NVOCC services. The number of OTIs that are only freight forwarders continues to decline.

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<sup>1</sup>Foreign-based NVOCCs included in NVOCC figure and not disaggregated pre-OSRA.

## Office of Passenger Vessels and Information Processing (“OPVIP”)

The OPVIP has the responsibility of implementing the Commission’s Passenger Vessel Program in accordance with Public Law 89-777 (46 CFR 540). This program ensures that passengers are indemnified against casualty or non-performance from cruise lines. The OPVIP is responsible for reviewing applications for certificates of financial responsibility, managing all activities with respect to evidence of financial responsibility of passenger vessel owner/operators, and developing and maintaining all Bureau databases and records of OTI applicants and licensee.

### Looking Back: 2003

- The Passenger Vessel Program received 40 applications for Performance Certificates and processed 45, and received and processed 30 applications for Casualty Certificates.
- In FY03, the Passenger Vessel Program was re-evaluated to determine any necessary changes based on industry growth and change in the past 40 years. From the accomplishment of this performance goal came a proposed rule-making. The Bureau currently is reviewing public comments.
- In addition, OPVIP conducted an analysis of the Protection and Indemnity Club agreement with the Commission, continued to work on cruise bankruptcies from recent years, and worked to ensure compliance by several cruise lines.
- A current list of licensed OTIs was posted and maintained on the Commission’s Homepage. This protects carriers and individuals from dealing with an unlicensed OTI, protects licensed businesses from misunderstandings by carriers, and is helpful to Customs.

• **Passenger Vessel Responsibility [Docket No. 02-15] (October 31, 2002).** The Bureau worked on the Notice Of Proposed Rulemaking issued by the Commission to amend its rules regarding the establishment of passenger vessel responsibility under P.L. 89-777. Comments were received from various interested parties and a public hearing was held in May 2003. The Bureau currently is working with the Commission to review the comments.

### Looking Ahead: 2004

- In FY04, the Bureau intends to complete the rulemaking to ensure that the Passenger Vessel Program provides adequate consumer protection without being unduly burdensome on the industry.
- The Bureau will also continue its efforts in FY04 to design electronic forms, especially the FMC-18, and further explore integration of Commission databases.



## Office of Consumer Complaints (“OCC”)

The Office of Consumer Complaints provides *ombuds* services and responds to inquiries and complaints, acting as an intermediary to resolve difficulties encountered with respect to cruises and shipments of cargo. Most disputes can be resolved through an informal process, with both sides reaching an agreement with OCC assistance. When an agreement is not reached, in certain cases a claimant may choose to initiate an informal docket proceeding, alleging a 1984 Act violation. This is a form of arbitration, with both sides agreeing to be bound by the decision. In addition, the OCC reviews and decides special docket applications, which are requests to waive or refund charges. The office also assists in the implementation of the ADR program.

### Looking Back: 2003

- The OCC received 2,355 inquiries by phone, e-mail, and fax. Out of these, 601 became informal complaints and 3 became informal dockets.
- The OCC resolved 7 informal dockets and issued 4 special docket decisions.
- In accordance with FY03 performance goals, the OCC created a new list of data codes for the complaint database to provide more information on types of complaints against cruise operators.

### Looking Ahead: 2004

- Based on current industry trends, the OCC estimates that inquiries and complaints will increase in FY04.
- A goal for FY04 is to increase the use of ADR to result in faster, less expensive resolution.



## Alternative Dispute Resolution (“ADR”)

Under this program, parties to a dispute are encouraged to avail themselves of services provided by the Commission to resolve disputes, primarily through mediation or *ombuds* services. The Commission makes trained neutrals available to facilitate the resolution of shipping disputes at all stages. The Bureau's Deputy is the Commission's Dispute Resolution Specialist and serves as a third party neutral in complex proceedings already in litigation. Staff personnel within the Bureau's Office of Consumer Complaints also provide mediation services. Mediation services are provided for a broad range of disputes, from informal, pre-litigation disputes to those involving significant matters in litigation. Mediation is the most frequently chosen method of dispute resolution for matters being litigated in formal Commission adjudicatory proceedings.

During FY03, Commission provided formal mediation services that assisted parties in arriving at settlements of two major proceedings.

## Operational and Administrative Program



The following administrative offices also are under the Executive Director:

- **Office of Budget and Financial Management (“OBFM”)**

The OBFM administers the Commission's financial management program and is responsible for providing advice on optimal utilization of the Commission's fiscal resources.

In FY03, OBFM coordinated and prepared the FY04 Congressional Budget and the FY05 OMB budget request, instituted a new accounting cross-servicing arrangement, and prepared a variety of budget related reports.

- **Office of Human Resources (“OHR”)**

The OHR plans and administers a complete human resources management program.

Significant accomplishments in FY03 include administering the Agency's SES Candidate Development Program, conducting a comprehensive training program in accordance with the agency's strategic and annual performance plans, and concluding transitioning efforts for the new cross servicing-arrangement.

- **Office of Information Resources Management (“OIRM”)**

The OIRM provides management support with respect to information technology to the program and administrative operations of the Commission

FY03 accomplishments include: conducting a Commission-wide systems security assessment, developing the FMC IT systems inventory, and maintaining and enhancing the FMC Homepage.

- **Office of Management Services (“OMS”)**

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

Some FY03 accomplishments include implementing an automated procurement system, executing a new building lease for Headquarters, and arranging for the printing of 2 FMC brochures.

### Looking Ahead:

- In FY04, the administrative offices will advise agency management and staff on all administrative matters and ensure maintenance of a sound and progressive administrative program.
- Work will continue on the integration of BPD's Prism procurement system with the Oracle-based accounting system, and an IT capital planning investment control process will be developed and implemented as part of improving the overall agency IT program.

## Equal Employment Opportunity Program

### Office of Equal Employment Opportunity

The Office of Equal Employment Opportunity ("EEO") develops, implements and manages a comprehensive program of equal employment opportunity for the FMC. The EEO program is statutorily mandated with required activities in complaints processing and adjudication, affirmative program planning, special emphasis programs, community outreach, monitoring and evaluation. The Director ("DOEEO") arranges for counseling of employees who raise allegations of discrimination; provides for the investigation, hearing, fact finding, adjustment, or early resolution/mediation of complaints of discrimination; and monitors and evaluates the program's impact and effectiveness. The DOEEO represents the agency on several intergovernmental committees; coordinates all affirmative program planning efforts; directs programs of special emphasis and coordinates the activities of the Selective Placement and Federal Equal Opportunity Recruitment Coordinators.

#### Looking Back: 2003

- The EEO focused in FY03 on education of the workplace through seminars, briefings, and training for employees.
- The EEO instituted an Advisory Committee on Women's Issues.

#### Looking Ahead: 2004

- The EEO will continue to concentrate on programs to increase understanding of EEO concepts.



## Inspector General Program

### Office of the Inspector General ("OIG")

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 a memorandum of understanding ("MOU") with the FMC's Office of the General Counsel that provides for the furnishing of legal services. A similar MOU with the Social Security Administration's Office of Inspector General provides for the furnishing of criminal investigative assistance if the need should arise. In addition, the Office utilizes the expertise of outside consultants to assist in performing specialized audits and reviews.

In FY03, the OIG issued 5 audits. These included reviewing the Alternative Dispute Resolution Program, verifying the agency's progress in meeting 2001 Annual Performance Plan goals, and reviewing the Commission's Westlaw contract.

In FY04, the OIG will continue to follow up on agency progress in relation to performance goals and ensure that new payroll and personnel services systems are implemented in an efficient, orderly manner.



## Systems, Controls, and Legal Compliance

The Commission's internal accounting and administrative controls are adequate to ensure that:

- Transactions are executed in accordance with budgetary and financial laws and other requirements, consistent with the purposes authorized, and are recorded in accordance with Federal accounting standards;
- Assets are properly acquired and used, safeguarded to deter theft, accidental loss or unauthorized disposition, and fraud; and
- Performance measurement information is adequately supported.

During FY03, the Commission completed its transition to a new, JFMIP-approved cross-servicing accounting provider. Our financial management/accounting systems now conform to generally accepted accounting principles and the relevant financial management system requirements and information objectives of OMB, including implementation of the Standard General Ledger.

The Commission's Inspector General conducted audits and/or reviews of aspects of the agency's financial system or financial processes. While auditing the agency's contract for online research services, the Inspector General found that certain funds (approximately \$24,000) obligated might not be allowed to be used due to inadvertent errors in the contract. The Commission subsequently addressed this issue and recovered the use of the funds.

The Federal Maritime Commission places a high level of importance on maintaining adequate controls. In line with requirements under the Federal Managers' Financial Integrity Act ("FMFIA"), the Commission advises that its financial systems provide reasonable assurance that the objectives of the FMFIA are being met, and that the Commission is in compliance with section 4 of the FMFIA. While the Commission will cite certain material weaknesses in its full FMFIA report later this calendar year, these relate to its IT program, and do not result in waste, fraud or abuse. OMB has long held that the existence of material weaknesses does not preclude statements of overall compliance, so long as the weaknesses, when considered together, are not sufficiently serious to prevent reasonable assurance of overall compliance. For reasons iterated in our FY02 FMFIA report, and which will be reiterated in our FY03 FMFIA report, the Commission can provide reasonable assurance that the objectives of the FMFIA are being met and that the Commission, as a whole, is in compliance with section 2 of the FMFIA.