

Office of Inspector General

Semiannual Report to the Congress

Covering the Period
April 1, 2012 — September 30 2012



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 29, 2012

Office of Inspector General

Dear Chairman Lidinsky 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, 2012, to September 30, 2012. 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.

During this period we issued one evaluation of an FMC operation, began three other audits / evaluations and commenced planning for a fourth evaluation. Also during the reporting period, the OIG processed five hotline complaints. The OIG opened one investigation and referred one matter to prosecutorial authorities.

In addition to these audit and investigative activities and outcomes, the OIG responded to two congressional inquiries for information and three Freedom of Information Act requests from the public. We continued to respond to consumers who were victimized as part of an internet scam operation using FMC indicia and worked with the agency's Office of the General Counsel to issue Commission regulations pertaining to IG reporting requirements as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

As of September 30, 2012, there were 14 recommendations between 22 and 78 months old. The oldest recommendation, to implement a paperless bill-paying process, is a "green" alternative to the current paper based process that would be more efficient for agency staff and its customers.

I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.

Respectfully submitted,

/Adam R. Trzeciak/
Inspector General

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EXECUTIVE SUMMARY

This Semiannual Report to the Congress summarizes the activities and accomplishments of the Federal Maritime Commission (FMC or Commission), Office of Inspector General (OIG) for the period April 1, 2012 through September 30, 2012. During this period we issued one evaluation of an FMC operation, began three other audits / evaluations and commenced planning for a fourth evaluation.

During this reporting period, the OIG received five complaints. We responded to two of the complaints and forwarded three complaints to the appropriate FMC program areas for disposition or to other agency OIGs or programs with jurisdiction over the subject matter of the complaint. The OIG opened one investigation and referred one matter to prosecutorial authorities during this period.

In addition to these audit and investigative activities and outcomes, the OIG responded to two congressional inquiries for information and responded to three Freedom of Information Act requests from the public. We continued to respond to consumers who were victimized as part of an internet scam operation using FMC indicia and worked with the agency's Office of the General Counsel to issue Commission regulations pertaining to IG reporting requirements as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

BACKGROUND

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. For FY 2012, the Commission was appropriated \$24.1 million and is authorized 132 full-time equivalent positions.

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.

The FMC/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 inspector general (IG) who reports directly to the FMC Commissioners. To aid the FMC in accomplishing its mission in FY 2012, the OIG is provided three full-time staff and a budget of \$727,322.

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. 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.

AUDITS/EVALUATIONS

During this semiannual period, the OIG issued one evaluation of the agency lease of its vehicle. We also began audits of the FMC's financial statements and its transit subsidy program, and began a program evaluation of information security pursuant to the Federal Information Security Management Act. Details on these audits and evaluations are provided below.

Issued Audits and Reviews

Audit Report Number

Subject of Audit

OR12-02

FMC Controls over the Procurement, Lease and Use of the Agency Vehicle

Summary of Audits and Reviews Issued During the Current Period

In **OR12-02**, *FMC Controls over the Procurement, Lease and Use of the Agency Vehicle*, the objectives were to assess compliance with Federal regulations pertaining to the procurement of the agency's leased vehicle by FMC staff and determine whether controls are in place to provide reasonable assurances that the vehicle is being properly used.

We found that the agency did not comply with General Service Administration requirements regarding vehicle size and fuel efficiency when procuring the vehicle, and Executive Orders pertaining to work to home prohibitions and website reporting requirements. The OIG noted a \$100 reduction in monthly local travel cost but not enough to offset fully loaded lease costs of approximately \$1,500. Further, 91 percent of the recorded trips were made with three or less employees in a vehicle that seats eight passengers.

Importantly, our analysis was based on incomplete records. The log used to record trips was missing approximately half of the vehicle miles appearing on the vehicle's odometer. The OIG made four recommendations to address the noted deficiencies, and identified the need

to reassess whether an eight passenger SUV is needed to accomplish the agency's mission, given usage records and budgetary constraints.

Draft Audits or Reviews

The OIG issued draft audit report **A13-01, *Audit of the FMC Transit Benefit Program***, to management for comment in September, 2012. The objectives of the audit were to determine whether there are controls in place to monitor the transit subsidy program and whether employees are adhering to Commission policy and program guidelines. Management comments are due on October 26, 2012 and the report will be issued immediately thereafter.

Reports with Fieldwork in Progress

In **A13-XX, *Audit of FMC's FY2012 Financial Statements***, the audit objectives are to opine on whether the FMC's FY 2012 financial statements follow Generally Accepted Accounting Principles and present fairly the financial position of the agency. The OIG will also 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, 2012 and 2011, and the related Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources and Statements of Custodial Activity. This will be the ninth consecutive year that the FMC prepared financial statements for audit.

The OIG will also prepare a ***Management Letter*** that presents findings arising from the review of the statements that are not material to the financial statements in the current year, but if not addressed, could materially affect future statements.

In **A13-XX, *Independent Evaluation of FMC's Implementation of the Federal Information Security Management Act (FISMA) for FY 2012***, the objectives are to (1) evaluate the agency's information systems security program and assess compliance with FISMA and related information security policies, procedures, standards and guidelines; (2) evaluate

responses to prior recommendations, (3) perform a vulnerability assessment of the FMC network using scanning tools from inside the FMC domain; and (4) review agency activities associated with its responsibilities under the Privacy Act. This year the OIG will issue an independent evaluation of the agency's information security program and submit a report to the Office of Management and Budget in response to specific security-related questions provided to all federal departments and agencies subject to FISMA. We will provide the results of the internal scan to OIT management for remediation and issue a Privacy Act assessment report.

In **A13-XX, *Review of Expenditures for Personal Furnishings by the FMC Chairman***, the objective is to assess compliance with Sec. 711 of P.L. 111-8, as amended, the Omnibus Appropriations Act of 2009, that prohibits presidential appointees from obligating or expending funds in excess of \$5,000 to furnish or redecorate their offices over the life of their appointment.

Planned Audits or Reviews

In **A13-XX, *Audit of the DataWatch Systems Physical Security***, the OIG will assess program costs, FMC oversight and how the agency compiles and uses information generated by the data watch card readers.

INVESTIGATIVE ACTIVITIES

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. 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 five hotline complaints. We responded to two of the complaints and forwarded three complaints to the appropriate FMC program areas for disposition. The OIG opened one new investigation and referred one matter to prosecutorial authorities during this period.

Additionally, the OIG continues to work with the agency's Office of the General Counsel concerning an ongoing internet scam that attempts to defraud the public by, among other things, using the agency's official insignia to add legitimacy to correspondence with the targeted public.

OTHER OIG ACTIVITIES

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the Office of Inspector General 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.

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 OIG remains active in CIGIE operations. For example, the IG is a member of both the Legislation and Integrity Committees. The Legislation Committee is a centralized point-of-contact and liaison for CIGIE to ensure regular and ongoing communication with Congressional committees, committee staff and the Government Accountability Office, regarding issues of common interest, and

provides input to, and receives feedback from, the Congress on legislation affecting the IG community as a whole. The Integrity Committee is charged with receiving, reviewing, and referring for investigation, where appropriate, allegations of administrative (non-criminal) misconduct against inspectors general and designated senior staff members of the OIG. The Committee's membership consists of the Federal Bureau of Investigation's representative to the CIGIE, who serves as its chairperson; the Special Counsel, Office of Special Counsel; the Director of the Office of Government Ethics; and four federal inspectors general. The IG also continued to participate in quarterly meetings with other Designated Federal Entity OIGs to discuss issues, outcomes and solutions endemic to smaller IG offices.

The Assistant Inspector General 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.

During this semiannual period, the OIG did not review legislation impacting the FMC; however, we did review and comment on IG community-related legislation and other proposals with a direct impact on office of inspectors general operations. We also worked with the agency's Office of the General Counsel to revise and issue Commission regulations pertaining to OIG reporting responsibilities.

During the reporting period, the OIG assisted two sister OIGs in providing audit report quality control.

Peer Review Activities

Federal Offices of Inspector General are required by the IG Act to have a peer review performed once every three years. These reviews are to be performed only by federal auditors.

A committee of the CIGIE schedules the review to ensure that resources are available to perform them 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 most recent peer review of the FMC OIG was issued on March 12, 2010, outside of this reporting period. There are no unimplemented recommendations from this or any previous peer review. The OIG is currently coordinating with a sister OIG to perform our next peer review, which will be completed prior to the end of the next reporting period. The March 2010 peer review opinion is available at www.fmc.gov/bureaus_offices/office_of_inspector_general.aspx.

Significant Management Decisions

If the IG disagrees with any significant management decision, Section 5(a)(12) of the Inspector General Act requires that such disagreement be reported in the semiannual report. Further, Section 5(a)(11) of the Act requires that any decision by management to change its response to a significant resolved audit finding must also be disclosed in the semiannual report.

For this reporting period, there were no significant management decisions made on which the IG disagreed, and management did not revise an earlier decision on an OIG audit recommendation.

Access to Information

The IG is to be provided with ready access to all agency records, information, or assistance when conducting an investigation or audit. Section 6(b)(2) of the IG Act requires the

IG to report to the agency head, without delay, if the IG believes that access to required information, records or assistance has been unreasonably refused or otherwise has not been provided. A summary of each report submitted to the agency head in compliance with Section 6(b)(2) must be provided in the semiannual report in accordance with Section 5(a)(5) of the Act.

During the reporting period, the OIG did not encounter any difficulties in obtaining assistance or access to agency records. Consequently, no report was issued by the IG to the agency head in accordance with Section 6(b)(2) of the IG Act.

Audit Resolution

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken. As noted below, 14 of these recommendations remain open past one year. Importantly, all recommendations below were identified in the prior semiannual report as “unimplemented over one year old.” Management has made little progress to address them.

Short Title	Report Issue Date	Open Rec's	Elapsed Months (as of 9/30/12)
1. FY 2010 Management Letter	11/10/10	3	22
2. Helpdesk Satisfaction Survey	8/6/10	4	25
3. User Fee Calculations	5/27/10	1	28
4. T&A – Capping Report	5/14/10	2	28
5. FISMA Evaluation for 2009	1/28/10	1	32
6. Bureau Timekeeping Practices	6/30/09	1	39
7. Agency Checkout Process	1/12/09	1	44
8. Accuracy of Enforcement Databases	3/31/06	1	78

The oldest recommendation (78 months) involves “Pay.gov,” a payment system available to all federal agencies that enables agency customers to make secure electronic payments to the agency directly from their bank accounts or by credit/debit cards. The FMC still processes the majority of its transactions with customers, including regulated entities, by bank check. On October 25, 2012, management informed the OIG that the “Pay.gov” contract has been awarded. Requirements definition meetings between the Office of Information Technology, the development contractor, and FMC bureaus and offices are in progress. The contractor has begun development of the FMC to “Pay.gov” interface and is gathering additional information to finalize FMC needs and processes. Pay.gov is scheduled to become operational in January 2013. This will benefit, for example, license applicants who will be able to charge their application fee. The OIG will continue to monitor the status of this recommendation to assess delays in implementing this labor saving green alternative to current processing procedures.

The second oldest recommendation involves revising existing employee check-out forms to itemize all agency IT systems individuals must be removed from prior to departing the agency. This would help to ensure access to sensitive agency data is safeguarded. The current form requires (i) an “Information Technology” signoff and focuses on physical IT assets, to include computer, monitor and phone card, and (ii) an Information Security Officer sign-off for a security clearance. Neither requires the employee to identify special applications s/he can access (payroll, procurement, licensing). These minor applications, often containing sensitive data, would not necessarily be removed when terminating the network account. Management informed the OIG that it has “drafted” a Standard Operating Procedure pertaining to HelpDesk procedures to address this recommendation. OIT is also gathering information from bureaus and offices to provide a comprehensive list of the “universe of systems and benefits to which employees have access” outside of FMC systems.

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. The OIG telephone number is **(202) 523-5863**. 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**](mailto:oig@fmc.gov) or to [**https://www2.fmc.gov/oigcomplaints/**](https://www2.fmc.gov/oigcomplaints/) (if the complainant wishes to remain anonymous).

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)(3)	Prior significant recommendations on which corrective actions have not been made	9
Section 5(a)(4)	Matter 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	3
Section 5(a)(7)	Summary of each particularly significant report	3
Section 5(a)(8)	Statistical tables showing number of reports and dollar value of questioned costs	13
Section 5(a)(9)	Statistical tables showing number of reports and dollar value of recommendations that funds be put to better use	14
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)	Significant revised management decisions	None
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	None

TABLE I
INSPECTOR GENERAL ISSUED REPORTS WITH QUESTIONED COSTS

	<u>Dollar Value</u>		
	<u>Number</u>	<u>Questioned Costs</u>	<u>Unsupported Costs</u>
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	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 II
INSPECTOR GENERAL ISSUED REPORTS WITH RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE

	<u>Number</u>	<u>Dollar Value</u>
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	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

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:

<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**