FEDERAL MARITIME COMMISSION

An independent agency of the U.S. Government

Performance and Accountability Report

FISCAL YEAR 2021

Chairman Daniel B. Maffei
November 2021

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This Report can be downloaded at https://www.fmc.gov/about-the-fmc/performance-and-accountability-reports/

MESSAGE FROM CHAIRMAN MAFFEI

Federal Maritime Commission
Washington, D.C. 20573-0001

Office of the Chairman
November 15, 2021

With this letter, I submit the Commission's Performance and Accountability Report for Fiscal Year 2021 (FY 2021), including financial and program performance results. The performance and financial data contained in this report are reliable and complete. Prior to the preparation of this report, the Commission evaluated its management controls and financial management system pursuant to the Federal Managers' Financial Integrity Act of 1982. No material weaknesses were identified, and the financial management system conforms to government financial system requirements. In accordance with OMB Circular A-123, Appendix C, no improper payments were made. This report contains the results of an independent audit of the Commission's financial statements, internal controls, and management systems, which verified that they conform to generally accepted accounting principles, laws, regulations, and requirements.

This report also provides highlights of the Commission's work, guided by its Strategic Plan, in accomplishing its mission and meeting its strategic goals. I take pride that for the 18th consecutive year, the Commission's financial statements have earned an unmodified ("clean") opinion. The Commission remains committed to ensuring proper operational oversight, with safeguards in place to protect the agency and the public from financial risks, and provide transparency and accountability to the American taxpayer.

On behalf of the Federal Maritime Commission, I am pleased to provide this FY 2021 Performance and Accountability Report to the Office of Management and Budget.

Sincerely,

/s/

Daniel B. Maffei
Chairman

PART ONE
MANAGEMENT'S DISCUSSION AND ANALYSIS

Fiscal Year 2021

OVERVIEW OF THE COMMISSION

HISTORY

First constituted over 100 years ago as the U.S. Shipping Board in the Shipping Act of 1916, the Federal Maritime Commission (FMC or Commission) was authorized in its current form as an Executive Branch agency in 1961. The Commission is an independent, non-CFO Act agency that regulates the international ocean transportation supply system (vessel liner carriers, ocean transportation intermediaries, and marine terminal operators). From its beginning, the Commission has worked to further competition and integrity for America's ocean supply chain.

MISSION STATEMENT

> **Ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.**

The Commission achieves its mission by ensuring that the fundamental dynamics of a free, open, and competitive ocean transportation market drive economic outcomes. The FMC is committed to faithfully administering the Shipping Act, employing a minimum of government intervention and regulatory costs, and placing a greater reliance on the marketplace.

THE FMC TODAY

Moving more than $1 trillion in containerized exports and imports each year, international ocean shipping is a critical component that supports our Nation's commerce.[1] Over the last decade, the industry has continually adjusted and reacted to challenging market conditions, and, more recently, the global pandemic has put the vital importance of this industry into sharp focus. As the U.S. economy continues to recover from the pandemic, the ocean shipping industry is challenged by unprecedented surges in cargo volumes and supply chain congestion. The FMC timely and efficiently analyzes the competitive impact of proposed vessel-operating common carrier (VOCC) and marine terminal operator (MTO) agreements; monitors activities under filed agreements; detects and addresses unreasonable increases in transportation costs or decreases in transportation services enabled by filed agreements; and addresses other activities prohibited by the Shipping Act. Accordingly, the Commission imposed enhanced reporting requirements on the major carrier alliances to monitor more closely their response to the market conditions of demand surges, tight capacity, equipment shortages, and increasing freight rates in the trade lanes from Asia.

The FMC works to ensure a competitive and reliable international ocean transportation supply system, in part, by balancing cost-containment strategies and cooperative working arrangements among ocean carriers or MTOs with the legitimate business needs of the Nation's many exporters/importers to ensure their goods reach international markets efficiently and reliably.

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[1] According to the U.S. Census Bureau: Economic Indicators Division USA Trade Online. Source: *U.S. Import and Export Merchandise trade statistics*, U.S. container exports and imports totaled $1,031,799,889,658 in 2020.

As the industry continues to evolve and change, the FMC will focus upon competition and integrity for America's ocean supply chain by:

- Analyzing and monitoring key U.S. trade lanes;
- Assessing the competitive effects of agreement parties' activities, particularly focusing on issues of costs (freight rates), vessel capacity (supply) and equipment availability upon the business community;
- Licensing our Nation's non-vessel-operating common carriers (NVOCCs) and freight forwarders, (collectively ocean transportation intermediaries, or OTIs), registering foreign-based NVOCCs, and administering an effective surety bond program to ensure payment of judgments for damages by OTIs; and
- Monitoring changes taking place with respect to chassis for the inland movement of containerized goods, and the competitive effects of changing carrier alliance structures, particularly as they may affect concerted procurement of carrier services in U.S. ports.

STATUTORY AUTHORITY

The principal statutes administered by the Commission, codified at 46 U.S.C. §§ 40101-44106 and § 3503, are:

- The Shipping Act of 1984, as amended (Shipping Act);
- The Foreign Shipping Practices Act of 1988 (FSPA);
- Section 19 of the Merchant Marine Act, 1920 (1920 Act);
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350; and
- Section 834 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (LoBiondo Act).

ORGANIZATION

The FMC is composed of five Commissioners nominated by the President and confirmed by the Senate, each serving a staggered five-year term. The Commission is a bipartisan body; no more than three members of the Commission may be of the same political party. One Commissioner, designated by the President, serves as the Chairman, Chief Executive, and Chief Administrative Officer of the Commission.

The Commission's staff is mainly comprised of economists, attorneys, and experts in ocean transportation, and is located at its Washington, D.C. headquarters. The Commission also maintains a presence in six major port locations nationwide, staffed by Area Representatives (ARs). In addition to the Commissioners' offices, the FMC is organized into ten bureaus and offices:

Bureau of Certification and Licensing (BCL) protects the public from financial harm through its OTI licensing, registration, and surety bonding programs. BCL also protects the public by requiring passenger vessel operators (PVOs) to maintain adequate financial coverage to reimburse cruise cancellations or to cover liability in the event of death or injury at sea.

Bureau of Enforcement (BOE) is the prosecutorial arm of the Commission. Bureau attorneys serve as trial counsel in formal proceedings and protect the shipping public by working closely with the Commission's ARs in investigations of potential violations of the Shipping Act and Commission regulations. BOE negotiates settlements and informal compromises of civil penalties and may act as investigative officers in formal fact-finding investigations.

Bureau of Trade Analysis (BTA) analyzes and monitors the concerted activities of vessel-operating common carriers (VOCCs or carriers) and MTOs to detect and guard against possible anticompetitive abuse of authority contained in filed agreements which could result in substantial increases in transportation costs or decreases in transportation services. BTA also reviews and analyzes service contracts, monitors rates of foreign, government-owned controlled carriers; and reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act.

Office of the Administrative Law Judges (OALJ) presides over administrative hearings and independently resolves cases involving alleged violations of the Shipping Act of 1984 initiated by private parties or by the Commission. Through trial hearings and the issuance of decisions, the OALJ ensures that the rights of all parties are preserved.

Office of Consumer Affairs and Dispute Resolution Services (CADRS) provides assistance to shippers, OTIs, cruise operators and passengers, truckers, MTOs, and carriers by providing alternative dispute resolution (ADR) services, ombuds assistance, mediation, and facilitation to resolve disputes involving cargo shipments, household goods shipments, and cruises.

Office of Equal Employment Opportunity (OEEO) advises and assists the Commission in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 (as amended), other laws, executive orders, and regulatory guidelines implementing affirmative employment; and the processing of EEO complaints.

Office of the Inspector General (OIG) is an independent oversight office created within the FMC by the Inspector General Act of 1978 (as amended) to conduct and supervise audits, inspections, and investigations relating to the FMC's programs; to detect and prevent waste, fraud, and abuse; to promote economy, efficiency, and effectiveness; to keep the Chairman, Commissioners, and Congress fully informed of serious problems and deficiencies and recommend corrective actions; and, as appropriate, to report violations of law to the U.S. Attorney General.

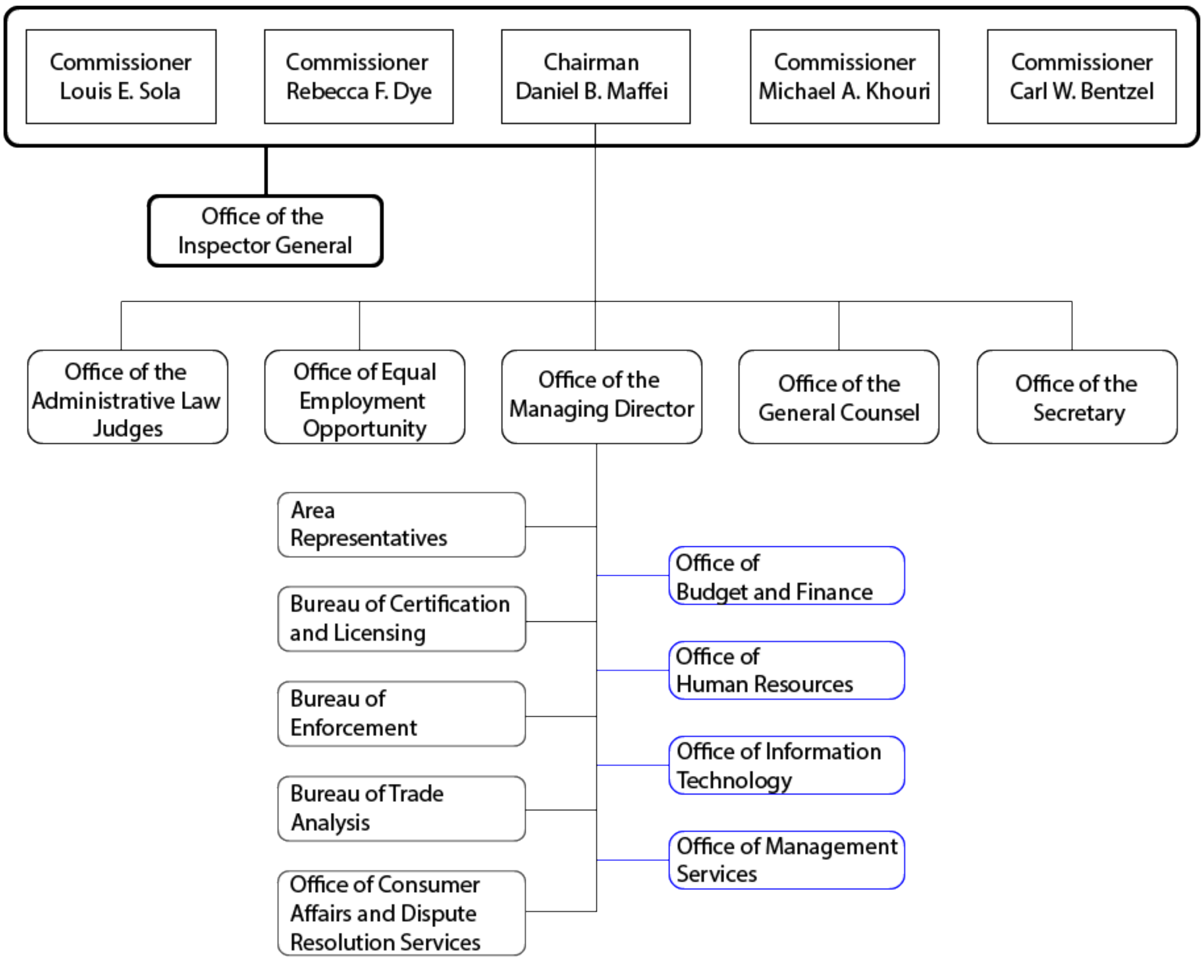
Office of the General Counsel (OGC) provides sound and timely legal services to the Commission and staff as it fulfills responsibilities, including preparing final decisions, orders, and regulations for Commission approval and issuance; represents the Commission in litigation before the courts; provides technical and policy assistance to other government agencies engaged in international negotiations or discussions on shipping matters; and provided legal opinions to the Commission, its staff, and the general public in appropriate instances. OGC also oversees the Commission's international affairs activities. The General Counsel is the Commission's Chief Legal Officer.

Office of the Managing Director (OMD) implements the administrative directives of the Chairman; the management and coordination of Commission program offices and bureaus; and oversees the agency's ARs. The Managing Director is the Chief Operating Officer. OMD's Director, Enterprise Services, also serves as the Chief Financial Officer, and has direct oversight of the administrative offices of the Commission, which include the Offices of Budget and Finance (OBF), Human Resources (OHR), Information Technology (OIT), and Management Services (OMS).

Office of the Secretary (OS) serves as the office through which all filings are made in Commission proceedings, notices of proceedings are given, and from which all official actions are issued by the Commission. OS prepares and maintains agenda matters and actions taken by the Commission; maintains official files and records of formal proceedings; ensures compliance with the Freedom of Information, Government in the Sunshine, and Privacy Acts; responds to information requests from the public; issues publications and authenticates instruments and documents of the Commission; maintains a public reference/law library and a docket library; and oversees the organization and content of the Commission's website.

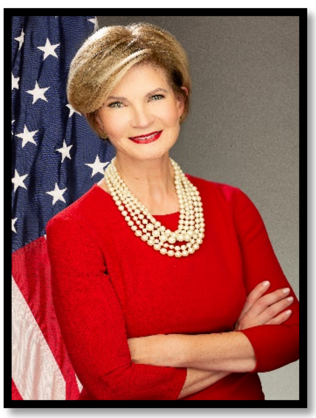
Federal Maritime Commission

Organization Chart*



MEMBERS OF THE FEDERAL MARITIME COMMISSION

Chairman Daniel B. Maffei
Appointed 2016
Term Expires 2022



Commissioner Rebecca F. Dye
Appointed 2002
Term Expired 2020

Commissioner Michael A. Khouri
Appointed 2009
Term Expired 2021

Commissioner Louis E. Sola
Appointed 2019
Term Expires 2023

Commissioner Carl W. Bentzel
Appointed 2019
Term Expires 2024

REGULATORY RESPONSIBILITY AND OVERSIGHT

The FMC ensures a competitive and reliable ocean transportation supply system by:

- Reviewing and monitoring agreements among and between carriers and among and between MTOs serving the U.S. foreign oceanborne trades to ensure that they do not cause unreasonable increases in transportation costs or decreases in transportation services;
- Maintaining and reviewing confidentially filed service contracts to guard against detrimental effects to shipping;
- Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce;
- Ensuring common carriers' tariff rates and charges are published in private, automated tariff systems and publicly available;
- Acting to address unfavorable conditions caused by foreign government or foreign business practices in U.S. foreign shipping trades; and
- Monitoring rates, charges, and rules of government-owned or -controlled carriers to ensure they are just and reasonable.

The FMC protects the public from financial harm and contributes to the integrity and security of the Nation's import and export supply chains and ocean transportation system. FMC activities include:

- Licensing and registering NVOCCs, and licensing U.S.-based freight forwarders, collectively OTIs;
- Administering and enforcing a surety bond program to ensure payment of judgments for damages by OTIs;
- Investigating and prosecuting violations of the Shipping Act and related statutes;
- Helping resolve disputes involving the shipment of goods or the carriage of passengers;
- Adjudicating private party complaints alleging Shipping Act violations;
- Ensuring that passenger vessel operators maintain proper financial coverage to reimburse cruise passengers in the event their cruise is cancelled or to cover liability in the event of death or injury at sea; and
- Registering and annually verifying VOCC status of ocean common carriers operating in U.S. trades.

AGREEMENTS

The FMC monitors key trade lanes and reviews and analyzes the competitive impact of agreements with particular emphasis on issues concerning carrier consolidation, adequate vessel capacity, and equipment availability. Worldwide economic conditions continue to drive changes among ocean carriers and MTOs, resulting in more complex or novel agreements filed with the Commission.

Fiscal years 2020 and 2021 saw a reduced number of agreement filings. Carriers and marine terminal operators continued to explore novel areas for cooperation through agreement filings at the Commission.

During FY 2021, the Commission continued a comprehensive review of the status of MTOs and began working with those that are no longer active in providing MTO services to remove them from the Commission's website. The Commission also reviewed all VOCC agreements on file and ensured that all filed agreements continue to reflect ongoing cooperation between agreement parties under the Shipping Act. In addition, for those MTOs that elected to make their MTO schedules publicly available, staff verified the internet location where those schedules are published and updated the FMC website accordingly to provide more current information to the shipping public to inform their business decisions.

As the industry responds to trade conditions and economic developments, the FMC will continue to analyze agreements for anticompetitive behavior and address unreasonable practices as necessary.

LICENSING

Ocean transportation intermediaries are the middlemen for oceanborne cargo moving in the U.S.-foreign trades. Before the FMC grants licenses to OTIs, each applicant must establish that it employs a Qualifying Individual (QI) with the necessary character and a minimum of three years of experience in the U.S., as well as establish its financial responsibility by means of a bond, insurance, or other instrument, as mandated by the Shipping Act.

The Commission continues to streamline its OTI licensing process, reducing time to process applications and render a decision, supporting the Commission's goal of completing 75 percent of all OTI license applications within 60 days. These efforts directly benefit U.S. export shippers who rely on licensed OTIs to help get their goods to foreign markets.

In September 2019, the Bureau of Certification and Licensing began an aggressive enforcement process to replace missing Qualifying Individuals. This process continues in coordination with the Bureau of Enforcement and has resulted in increased compliance and multiple license revocations.

PORT DEMURRAGE AND DETENTION PRACTICES

The COVID-19 pandemic has highlighted the economic urgency of responsive port and terminal operations to the effectiveness of the United States' international freight delivery system. Given its mandate to ensure an efficient and reliable transportation system for ocean commerce, the Commission has a clear and compelling responsibility to actively respond to current challenges impacting the global supply chain and the American economy.

On March 31, 2020, the Commission initiated Fact Finding 29, *International Ocean Transportation Supply Chain Engagement*. This ongoing investigation convened supply chain innovation teams to address port and terminal operational challenges in the wake of the COVID-19 pandemic and will continue to make industry recommendations as warranted.

By Order issued on November 19, 2020, this investigation was expanded to investigate whether alliances are employing practices or regulations in violation of 46 U.S.C. § 41102(c) including, but not limited to, practices and regulations related to demurrage and detention considering 46 C.F.R. § 545.5, empty container return practices and regulations, and practices and regulations related to the carriage of U.S. exports. In February 2021, the Fact Finding Officer issued information demand orders to ocean carriers and marine terminal operators to determine if legal obligations related to detention and demurrage practices are being met. In August 2021, the Fact Finding Officer issued interim recommendations to the Commission aimed at minimizing barriers to private party action, clarifying Commission and industry processes, and encouraging stakeholders to engage the Commission in enforcement actions and alternative dispute resolution.

In July 2021, the Commission established the VOCC Audit Program to address complaints from shippers and other stakeholders regarding VOCC detention and demurrage practices with respect to the handling, storing or delivery of equipment. The ongoing audit program seeks quarterly information from carriers regarding their internal and external detention and demurrage practices, as well as details of substantive changes to their detention and demurrage tariff rules. Further, the VOCCs were requested to provide documentation related to changes in internal review processes affecting payment timelines for those that have billing disputes with the carrier.

The VOCCs submitted initial responses at the end of August 2021, which included data and documents from the second quarter of CY 2020 through the second quarter of CY 2021. This data is being analyzed and the VOCCs will submit quarterly follow-up reports. This new audit program will require significant effort by Commission staff members to analyze and manage the information, data, and documents.

INTERNATIONAL AFFAIRS

The Commission's international affairs program monitors foreign shipping laws and practices that may have an adverse effect on the industry and makes recommendations to the Commission for investigating and addressing such practices. The Commission has the authority to address restrictive foreign shipping practices under the 1920 Act and FSPA.

The 1920 Act provides the Commission with authority to investigate and address discriminatory conditions caused by laws, rules, or regulations of foreign governments or the practices of foreign vessel operators. If the Commission finds that such actions result in conditions unfavorable to shipping in a U.S.-foreign trade, then the 1920 Act provides the FMC with several remedies that include: levying fines on foreign vessels calling at U.S. ports, prohibiting foreign vessel calls at U.S. ports, and restricting cargos that may be carried between the U.S. and the foreign country.

On March 6, 2020, the Commission received a petition from the Lake Carriers' Association, a trade association made up of owners and operators of vessels on the Great Lakes, alleging that proposed ballast water management regulations issued by Transport Canada, an agency of the Government of Canada, created unfavorable conditions to shipping in the United States/Canada trade, pursuant to Section 19 of the 1920 Act. On June 16, 2020, the Commission formally initiated its investigation of pending Canadian ballast water regulations and invited interested parties to supplement information collected by FMC staff as they investigate allegations that Canadian ballast water regulations are unfavorable and detrimental to U.S.-flag Laker vessels. FMC staff resources are dedicated to this investigation which is ongoing and expected to continue in FY 2022 and potentially FY 2023.

The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in the foreign trade and that do not exist for foreign carriers in the United States. The FMC will continue to participate, both formally and informally, in international agreement negotiations that could affect foreign-borne cargo shipments to the United States. The FMC also tracks consumer and U.S.-flag vessel operator inquiries regarding possible foreign restrictive shipping practices.

The Commission will continue its international outreach efforts to coordinate with foreign counterparts to end unlawful, unfair, and deceptive practices. On September 7, 2021, the Commission participated in the European Union (EU)-hosted 5th Global Regulatory Summit. The Summit is a biennial forum for competition officials from the U.S., People's Republic of China, and the European Union to meet and discuss their respective approaches to the common goal of ensuring continued competition in ocean shipping.

ENFORCEMENT, DISPUTE RESOLUTION, AND PUBLIC INFORMATION

The Commission's statutory and regulatory mandate is designed to protect the shipping public and ensure industry adherence to U.S. shipping laws. Enforcement-based initiatives will continue to address any prohibited acts under the Shipping Act, including VOCCs and NVOCCs that engage in unfair service contracting practices, particularly those practices which permit unlicensed OTIs to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws.

The FMC uses database systems with other federal agencies to improve identification of entities providing and utilizing maritime transportation services. The FMC has an ongoing Memorandum of Understanding (MOU) with the U.S. Department of Homeland Security, Customs and Border Protection (CBP), to provide for information sharing with CBP's Automated Commercial Environment (ACE). The FMC also has an active Inter-Agency Agreement with the Census Bureau at the U.S. Department of Commerce for access to the Census' Automated Export System (AES) database. An MOU with the Department of Justice, Antitrust Division, was executed in July 2021 to increase cooperation and communication in each agency's respective oversight and enforcement responsibilities of the ocean liner shipping industry. These affiliations facilitate access to confidential U.S. export shipment data, helping the FMC to accomplish its mission.

The Commission provides information in many forms to educate regulated entities, stakeholders, and the public about resources, remedies, and regulatory requirements. The Commission's website offers news releases, information on investigations, advice on topics such as FMC regulations, OTI licensing, household goods moves, use of ADR services to assist parties with resolving cruise- and cargo-related disputes, as well as brochures, how-to guides, forms and applications and reference libraries. The Commission regularly provides outreach and education to the shipping industry, stakeholders, and other government entities on the statutes it implements. Commissioners and staff address industry and stakeholder groups to provide information on the latest issues related to Commission activities and international commerce.

The FMC assists with industry-driven solutions to ocean shipping issues. The Commission's CADRS office receives time-sensitive requests for informational and dispute resolution assistance from shippers and carriers. Area Representatives, strategically located near six major maritime ports, operate as the Commission's front line for information-gathering on issues facing the industry. The Commission's Office of the Secretary regularly updates the

FMC's website and social media, providing time-sensitive notifications and important information to the public. The FMC also responds to requests for information from the press and the public, delivering key information directly to potentially affected shippers and consumers.

MISSION CHALLENGES

The Commission constantly monitors the issues and challenges facing the United States' ocean transportation system and its stakeholders, and purposefully focuses its efforts to foster the Nation's international trade and economic growth. Strategic goals are accomplished by continuing to improve staff efficiency and closely manage resources to enforce the Commission's governing statutes and regulations to protect the shipping public.

As financial resources permit, the FMC will continue to prioritize investments needed in information technology (IT) to improve information security, efficiency, and greater public access, while reducing costs. These planned IT improvements are critical to restraining future personnel growth and permitting options for the FMC to reallocate existing personnel to the strategic program needs of the future, consistent with OMB Memorandum M-17-22, *Reforming the Federal Government and Reducing the Federal Workforce*.

REGULATORY REVIEW

The FMC expanded recently granted COVID-19-related relief in service contract filing requirements to allow the industry to quickly respond to changing conditions, and to provide limited and temporary relief to small U.S. passenger vessel operators whose operations and business were disrupted by the response to COVID-19. Docket No. 20-02, Service Contracts, finalized in FY 2020, provided substantial regulatory relief to VOCCs by removing the requirement and associated costs to publish essential terms of each individual service contract filed with the Commission. To minimize COVID-19-related impacts to the Nation's vital supply chain, the Commission provided temporary service contract filing relief on April 27, 2020 and extended it through June 1, 2021 (Docket No. 20-06). The Commission permanently amended its regulations following the positive response of the industry to this relief. The resultant Final Rule in Docket No. 20-22 became effective on June 2, 2021, permitting ocean carriers to file original service contracts with the Commission up to 30 days after the contract becomes effective. Shippers and carriers now have more flexibility in meeting service contract filing requirements, which better reflects contemporary business practices. Commission regulations previously required the filing of initial service contracts before an ocean carrier was permitted to receive and move cargo under the terms of that contract. This extends to original service contracts the same delayed filing relief previously granted for service contract amendments under Docket No. 16-05.

PROGRAM PERFORMANCE OVERVIEW

The Commission provides a performance plan to Congress, pursuant to the Government Performance and Results Act (GPRA). The FMC's *Strategic Plan for Fiscal Years 2018-2022* (Strategic Plan) is posted on its website. The FY 2021 Annual Performance Report is presented in Part Two of this Report.

ACHIEVING STRATEGIC GOAL RESULTS

The Commission's Strategic Plan provides the foundation for planning and budgeting activities. The plan sets goals and objectives for each fiscal year, and contains targets and measures linked to objectives via strategies. These objectives, strategies, targets, and measures drive the agency's budgetary process. Funding and Full-Time Equivalent (FTE) staffing levels are integrated into the Commission's performance budget planning document by strategic goal to clearly identify the budgetary and staff resources committed to the performance of each goal. During FY 2021, the Commission exceeded seven of its eight performance targets.

STRATEGIC MANAGEMENT OF HUMAN CAPITAL

In 2021, the FMC continued to implement the strategic goals, objectives, and strategies outlined in its 2012-2017 Human Capital Plan and 2018-2022 Strategic Plan. The Commission continued to recruit and retain a talented staff while appropriately managing succession in the Commission's relatively small workforce.

During 2021, the FMC continued its response to a global pandemic by successfully maintaining a virtual environment, while improving and streamlining automation of processes and procedures. The Office of Human Resources virtually onboarded all new hires and completed hiring actions remotely. As a result, the Commission quickly backfilled vacancies to remain fully operational. Additionally, the FMC implemented subject matter expert reviews (SME) of applicant lists. The use of SME reviews has improved the quality of applicants issued to the hiring manager, catering to a talented workforce. To further aid in hiring top talent, the agency is implementing USA Hire assessments, which will allow the FMC to leverage technology to further assess general competencies and qualifications of applicants.

Consistent with OMB's April 17, 2017, guidance, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce*, the Commission finalized work on all objectives laid out in its 5-year *Agency Reform and Long-Term Workforce Plan FY 2018–2022* and completed all goals ahead of deadlines, including:

- realigning and combining functions within the Commission; and
- continuing to emphasize the achievement of operational efficiencies and improvement of customer service through automation projects.

Strong leadership remains a critical asset. The Commission continues to engage in succession management and projecting its future needs to continue supporting mission requirements.

To support succession management, the FMC continued offering leadership opportunities under the agency's Leadership Development Program and realigned and combined functions across the Commission to allow for greater career development opportunities. Continuous training and development in leadership competencies will prepare the next generation of leaders at the Commission.

COMPETITIVE SOURCING

The FMC submitted its FY 2021 Federal Activities Inventory Reform Act (FAIR Act) inventory to OMB in June 2021. The inventory identified 72 of the agency's 128 positions as commercial activity positions. No challenges to its commercial inventories have ever been received.

IMPROVED FINANCIAL PERFORMANCE

The FMC received an unmodified ("clean") opinion on its FY 2021 financial statements and will continue efforts to improve operations and achieve unmodified audit opinions in the future.

EXPANDED E-GOVERNMENT

The FMC worked diligently to provide the public with exceptional customer service throughout the COVID-19 pandemic. Commission news, documents, and events continued to be posted in a timely fashion under maximum telework flexibility. The website and social media were regularly updated, providing important information about the Commission's activities to the public.

Ongoing enhancement of the Commission's IT systems brought efficiencies and process improvements across the agency. Public facing web applications allowed the Commission to remain fully operational under maximum telework flexibilities during the pandemic. The Commission's *Information Technology Strategic Plan covering FY 2018-2022* (IT Strategic Plan) delivers cost efficiencies and fiscal responsibility while planning and managing technology solutions and resource allocations for ongoing and future needs. The IT Strategic Plan leverages digital transformation and initiatives for continuous improvement of customer services. It also identifies several overarching challenges including: consolidation and upgrade of legacy applications and infrastructure with relevant technologies; implementation of automation to streamline workflow processes and improve efficiency; and integration of security standards and frameworks to protect all agency-owned/issued assets and commercially sensitive data from cybersecurity risks. Ongoing IT investments and activities strive to stay abreast of technology advances and evolving cybersecurity requirements.

The Commission continues to work with the U.S. Department of Homeland Security (DHS) in provisioning technology infrastructure to comply with Federal Risk and Authorization Management Program (FedRAMP) and DHS continuous monitoring requirements for network security. Internal security tools have been deployed to effectively monitor and address network operations, including file integrity; password sufficiency; and probing for open ports and other externally visible points of attack.

COVID-19 IMPACT AND ACTIONS

The COVID-19 pandemic significantly disrupted the global shipping and cruise industries. The Commission has been responsive to changes in industry conditions and needs as the pandemic continues.

Providing Industry Regulatory Relief: Effective June 2, 2021, a new rule amended existing FMC regulations to enable ocean carriers to file original service contracts with the Commission up to 30 days after they go into effect. This change was prompted by positive industry response to the temporary service contract filing relief provided during the pandemic to minimize COVID-19-related impacts on the supply chain. The filing change provides consistent treatment of initial service contracts and amendments, as well as continued flexibility for carriers. In making its decision, the Commission carefully weighed the regulatory burden on regulated entities and the need for the FMC to carry out its mission concerning statutory oversight of service contracts.

Addressing Supply Chain Challenges: The COVID-19 pandemic has highlighted the economic urgency of responsive port and terminal operations to the effectiveness of the United States' international freight delivery system. Given its mandate to ensure an efficient and reliable transportation system for ocean commerce, the Commission has a clear and compelling responsibility to actively respond to current challenges impacting the global supply chain and the American economy. On March 31, 2020, the Commission initiated Fact Finding 29, *International Ocean Transportation Supply Chain Engagement*. This ongoing investigation convenes supply chain innovation teams to address port and terminal operational challenges in the wake of the COVID-19 pandemic and will continue to make industry recommendations as warranted.

By Order issued on November 19, 2020, this investigation was expanded to investigate whether alliances are employing practices or regulations in violation of 46 U.S.C. § 41102(c) including, but not limited to, practices and regulations related to demurrage and detention considering 46 C.F.R. § 545.5, empty container return practices and regulations, and practices and regulations related to the carriage of U.S. exports. In February 2021, the Fact Finding Officer issued information demand orders to ocean carriers and marine terminal operators to determine if legal obligations related to detention and demurrage practices are being met. In August 2021, the Fact Finding Officer issued interim recommendations to the Commission aimed at minimizing barriers to private party action, clarifying Commission and industry processes, and encouraging stakeholders to engage the Commission in enforcement actions and alternative dispute resolution.

Addressing Cruise Industry Challenges: COVID-19 severely impacted the cruise industry. Shortly after the pandemic began in early 2020 and cruise lines were issued No Sail Orders, the Commission initiated Fact Finding 30, *COVID-19 Impact on Cruise Industry*, to explore the challenges impacting the cruise industry and identify areas where the Commission might provide relief.

Based on a recommendation from Fact Finding 30, the Commission provided limited and temporary relief to small U.S. PVOs whose operations and business had been disrupted by the response to COVID-19.

In FY 2021, the Commission continued its efforts to assist with pandemic relief for the cruise industry. Fact Finding 30 issued interim reports on the impacts on Alaska, Washington, and Oregon; the Gulf Coast; California, Hawaii, and U.S. Pacific Territories; and U.S. territories in the Caribbean. These were followed by an additional report on impacts on the cruise ports located on the East Coast (excluding Florida). The Commission issued a proposed rule on August 25, 2021, to amend its regulations governing non-performance by passenger vessel operators (PVO/cruise lines) and establish new requirements for when cruise passengers should be provided refunds for cancelled or delayed voyages. The comment period closed in October 2021, and the comments are being evaluated. Investigative efforts will continue during the pandemic and recovery to assist with identifying commercial solutions to COVID-19-related issues that interfere with the operation of the cruise industry.

FINANCIAL PERFORMANCE OVERVIEW

The FMC's financial condition as of September 30, 2021, is sound. Internal controls are in place to ensure that funds are used efficiently and effectively, and that its budget authority is not exceeded. The FMC's accounting services provider, the Bureau of the Fiscal Service (BFS), prepared the financial statements as required by the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of the FMC in accordance with Federal Generally Accepted Accounting Principles (GAAP), standards approved by the Federal Accounting Standards Advisory Board (FASAB), and OMB Circular A-136, *Financial Reporting Requirements.*

The principal financial statements provided in this document are prepared to report the financial position and results of the operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). Reports used to monitor and control budgetary resources are prepared from the same books and records.

SOURCE OF FUNDS

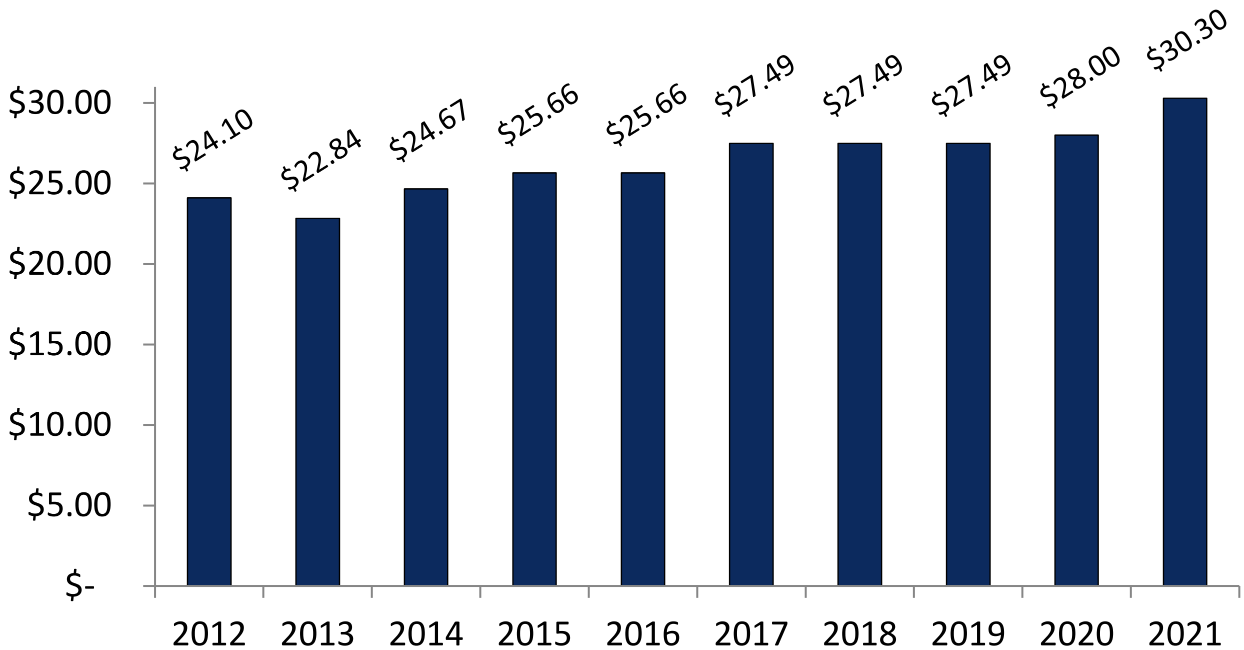
The FMC has single-source funding, salaries and expenses, funded by an annual appropriation available for commitments and obligations incurred during the fiscal year in which the authority was granted. Congress approved FY 2021 appropriations for the FMC in the amount of $30,300,000 through P.L. 116-260. This is an increase of $2,300,000 over the FY 2020 appropriation level. Additionally, the Commission received reimbursements of $98,810 for work performed by FMC's employees supporting other government agencies.

The FMC collects remittances for user fees and penalties; however, it is not authorized to offset any of its budget authority by using these funds. Collections are deposited directly into the Treasury General Fund. This information is captured in the Statement of Custodial Activity found in the *Financial Information* section of this report.

APPROPRIATIONS HISTORY

Appropriations History

Fiscal Years 2012-2021 ($M)



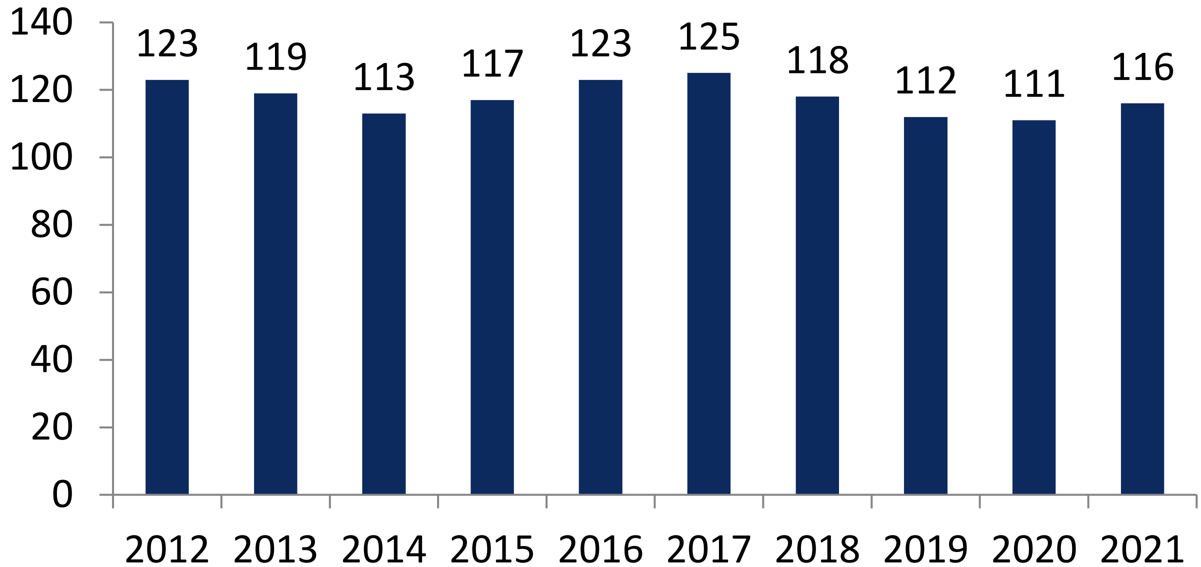
Full-time Equivalent History

The FMC's FTE level is largely driven by its annual appropriation level. The FMC currently has on board its full complement of five statutorily-authorized Commissioners.

The continued pace of retirements and separations in FY 2021 resulted in a lower than anticipated FTE level, at 116.1 FTEs, with 120 employees on board at the fiscal year's end. The Commission endeavors to develop the appropriate mix of staffing and other available resources to ensure effective accomplishment of its mission.

Full-Time Equivalent History

Fiscal Years 2012-2021



USES OF FUNDS

During FY 2021, obligations against the FMC's appropriation totaled $30.1 million representing 99.3 percent of the appropriation. Salaries and benefits are the single largest expense category at $20.8 million, or 68.6 percent of the total budget. The second largest category, rent and building security services, is approximately $4.2 million, or 13.8 percent of the total budget. Other administrative expenses equal 17.0 percent. The unexpended balance of $0.24 million, or 0.8 percent of the total budget, will be retained for allocation to legitimate increases to existing FY 2021 obligations.

AUDIT RESULTS

The FMC again received an unmodified ("clean") opinion on its FY 2021 financial statements from the auditing firm of Dembo Jones, P.C., under contract through the FMC's OIG. Comparative statements may be found in the *Financial Information* section of this report.

FINANCIAL STATEMENT HIGHLIGHTS

The financial statements were prepared to report the financial position and results of operations of the Commission pursuant to the requirements of 31 U.S.C. § 3515(b). The statements were prepared from the books and records of the Commission in accordance with the formats prescribed by OMB.

The FMC's financial statements summarize the financial position and financial activity of the agency. The financial statements, footnotes, and the remainder of the required supplementary information appear in their entirety in the *Financial Information* section of this report. A brief analysis of the principal statements follows.

SUMMARY OF ASSETS

The FMC's assets were $8,492,975 as of September 30, 2021. This represents an increase from FY 2020 of $148,074. The FMC's assets reported in the balance sheet are summarized in the table below.

Summary of Assets as of September 30, 2021		
	2021	**2020**
Fund Balance with Treasury	$8,407,506	$8,239,096
Accounts Receivable	$85,469	$85,609
Capital Assets	$0	$5,612
Other	$0	$14,584
Total Assets	**$8,492,975**	**$8,344,901**

The Fund Balance with Treasury of $8,407,506 represents the FMC's largest asset and comprises 99 percent of the agency's total assets. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2021, was $85,469 for outstanding receivables billed to both Federal and non-Federal entities. This accounts for 1.0 percent of the FMC's assets.

Capital Assets, also known as Property, Equipment and Software, accounts for 0 percent of the FMC's total assets as of September 30, 2021. The net value of $0 accounts for the depreciation of all assets and represents the current book value of those assets.

SUMMARY OF LIABILITIES

The FMC's liabilities totaled $3,731,914 as of September 30, 2021, a decrease of $348,209 from FY 2020. A portion of the decrease is due to a reduction in accounts payable.

Summary of Liabilities as of September 30, 2021		
	2021	**2020**
Accounts Payable	$725,160	$1,230,801
Payroll Taxes	$335,890	$298,355
Federal Employee Benefits		$0
Custodial Liabilities		$0
Accrued Liabilities	$2,670,864	$2,550,967
Total Liabilities	**$3,731,914**	**$4,080,123**

The FMC's Accounts Payable as of September 30, 2021, was $725,160. This represents the funds owed for goods and services received from vendors. The accrued liabilities of $2,670,864 represent future costs, such as accrued annual and sick leave balances and workman's compensation that are not covered by current budgetary resources.

Accumulated leave costs are recognized as they are taken, and Workman's Compensation costs are recognized as they are paid out.

ANALYSIS OF CHANGES IN NET POSITION SUMMARY

The Changes in Net Position Summary is a summary of two factors, Unexpended Appropriations and Cumulative Results of Operations. The total net position for FY 2021 is the result of a $496,283 decrease from FY 2020.

Changes in Net Position Summary as of September 30, 2021		
	2021	**2020**
Unexpended Appropriations	$6,410,608	$5,858,992
Cumulative Results of Operations	($1,649,547)	($1,594,214)
Total Changes in Net Position	**$4,761,061**	**$4,264,778**

Unexpended Appropriations represent the amount of unobligated and unexpended budget authority for the 5-year period ending on September 30, 2021. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation for the same period. The Cumulative Results of Operations (the cumulative excess of financing resources over expenses) is the net result of FMC's operations for all active fiscal years.

ANALYSIS OF NET COST SUMMARY

The analysis of Net Cost Summary presents the net cost of FMC's Programs as identified in the Annual Report. The agency's two programs are Operational and Administrative and Office of the Inspector General. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations and/or programs. Net Costs compared to Budgetary Resources can be found in the *Financial Information* section of this report. This table reflects costs attributable to all active fiscal years (2017-2021).

Net Cost Summary as of September 30, 2021		
	2021	**2020**
Operational and Administrative	$30,224,530	$28,680,366
Office of Inspector General	$526,311	$580,585
Total Net Cost	**$30,750,841**	**$29,260,951**

ANALYSIS OF THE STATEMENT OF BUDGETARY RESOURCES

Statement of Budgetary Resources as of September 30, 2021		
	2021	**2020**
Incurred	$30,247,419	$27,584,164
Unobligated Balance Unavailable	$2,458,280	$1,441,898
Unobligated Balance Available	$238,875	$588,559
Total Budgetary Resources	**$32,944,574**	**$29,614,621**

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources, the status of those resources at the end of the reporting period, and the relationship between the two. Total budgetary resources should equal the status of budgetary resources at all times. A more detailed SBR can be found in the *Financial Information* section of this report. During FY 2021, the FMC had a total of $32,944,574 available, representing an increase of

$3,329,953 from FY 2020 in budgetary resources. The budgetary resources represent financial activity during the accounting period for the five active fiscal years (2017-2021).

ANALYSIS OF SYSTEMS, CONTROL, AND LEGAL COMPLIANCE

The Commission's internal controls are fundamental to the systems and processes used to manage its operations and achieve its strategic goals. The Chairman's *Statement of Assurance* in the following section notes that there are no material weaknesses or instances of nonconformance to report for FY 2021.

Additionally, in line with the requirements of OMB Circular A-123*, Management's Responsibility for Enterprise Risk Management and Internal Control*, the Commission's Enterprise Risk Management Committee identifies, measures, and assesses risk points across the agency. The Committee's risk profile is used in conjunction with existing internal controls to improve the Commission's accountability and effectiveness.

MANAGEMENT ASSURANCES

The Federal Managers' Financial Integrity Act (FMFIA or Act) mandates that agencies establish controls that reasonably ensure that:

- obligations and costs comply with applicable laws;
- assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and
- revenues and expenditures are properly accounted for and recorded.

This Act encompasses program, operational, and administrative areas, as well as accounting and financial management. The FMFIA requires that the Chairman provide an assurance statement of the adequacy of management controls and conformance of financial systems with Government-wide standards; that the Commission's managers are held accountable for efficient and effective performance of their duties in compliance with applicable laws and regulations; and for maintenance of the integrity of their activities through the use of controls.

Chairman Maffei has provided his annual assurance statement in this report based on various sources, including knowledge of the daily operation of Commission programs and activities, regular discussions with the Managing Director, the Director of Enterprise Services, the Directors of the Offices of Budget and Finance and Management Services, audits of the financial statements, and implementation of the Commission's Strategic Plan. The Chairman also meets regularly with the Commission's Senior Management Team and receives regularly-scheduled reports from the FMC's Inspector General and OEEO Director.

Any deficiencies identified in management control would be addressed at the Commission's highest management levels. For example, corrective actions for significant deficiencies identified in the IT area would be overseen directly by the agency's Chief Information Officer (CIO).

During the fiscal year, the IG identified no significant deficiencies and there were no significant management decisions made on which the IG disagreed. During FY 2021, management and the OIG reached agreement on all OIG audit recommendations. Management resolved or worked to address a number of recommendations from the OIG's audits and reviews and will continue to work to address remaining open recommendations during FY 2022.

DEBT COLLECTION IMPROVEMENT ACT OF 1996

The Debt Collection Improvement Act (DCI) enhances the ability of the government to service and collect debts, as it centralized the collection of non-tax delinquent debt owed to the government. Federal agencies are required to refer delinquent accounts in excess of 180 days to Treasury for collection. Collection of the Commission's delinquent debts is conducted by the Bureau of the Fiscal Service through the Cross-Servicing Program and Treasury Offset Program, where the names and taxpayer identification numbers (TIN) of the delinquent entities are matched against the TINs of recipients of government payments. The balance owed to the government is deducted or offset from the payment to the entity to satisfy the debt. The goal is to minimize the amount of delinquent debt owed to the government. During FY 2021, the FMC effectively managed debt collection in accordance with the DCI and delinquent accounts were timely submitted to Treasury.

DIGITAL ACCOUNTABILITY AND TRANSPARENCY ACT OF 2014 (DATA ACT)

The DATA Act, an amendment to the Federal Funding Accountability and Transparency Act of 2006 (Public Law No. 109-282), required the establishment of government-wide data standards for spending information that agencies report to Treasury, OMB, and the General Services Administration (GSA). The Commission began reporting standardized spending information on May 9, 2017. Additionally, the DATA Act required Treasury and OMB to publish standardized spending information for free access and download on the government's USASpending.gov website beginning on May 9, 2018.

The Commission uses the infrastructure and financial system maintained by its Federal Shared Service Provider, the Administrative Resource Center (ARC), Bureau of the Fiscal Service. The Commission continued to work closely with ARC during the fiscal year to ensure that it was on target with DATA Act requirements.

Fiscal year 2021 was the fourth year of DATA Act implementation. Working with ARC, the FMC complied with all requirements and timely submitted all DATA Act certifications. In November 2019, the OIG completed its second required audit of the Commission's compliance with the DATA Act. Several recommendations for enhancing policies and procedures were incorporated into the Commission's Data Quality Plan and were reviewed by the OIG during the required audit in 2021, which will be completed in November 2021.

PROMPT PAYMENT ACT OF 1982

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2021, the FMC maintained a 100 percent on-time payment rate.

In FY 2021, the FMC paid $0 in interest payments.

PERFORMANCE MEASURE SUMMARY

The Commission does not have an in-house financial accounting system and does not receive a Performance Measure Summary from the Department of the Treasury. The Commission acquires travel, procurement, accounting, and financial services from Treasury's BFS, and verifies and reconciles all financial statements and reports prior to submission.

INSPECTOR GENERAL ACT OF 1978, AS AMENDED IN 1988, AND THE INSPECTOR GENERAL REFORM ACT OF 2008

Section 5(b) of the Inspector General Act of 1978 requires agencies to report on final actions taken on OIG audit recommendations. Action was taken to close all audit recommendations during the year. No significant deficiencies or material weaknesses were identified during FY 2021.

Inspector General-Issued Audits, Reports, and Evaluations -- FY 2021		
A21-01: Independent Auditors' Report of the FMC's FY 2020 Financial Statements		
Date Issued	Recommendations Issued	Remediated in FY 2021
November 2020	0	N/A
A21-02: Audit of the FMC's Compliance with the Federal Information Security Modernization Act FY 2020		
Date Issued	Recommendations Issued	Remediated in FY 2021
October 2020	2	1*
*Management continues its work to remediate one recommendation.		

TREASURY ASSURANCE STATEMENT – USA SPENDING RECONCILIATION

The FMC has implemented its plan to ensure data completeness and accuracy on www.USASpending.gov by using control totals with financial statement data and comparing samples of financial data to actual award documents. The prime Federal award financial data reported on www.USASpending.gov is correct at the reported percentage of accuracy, and the FMC has adequate internal controls over the underlying spending.

LIMITATIONS OF THE FINANCIAL STATEMENTS

The principal financial statements are prepared to report the financial position and results of operations of the Commission, pursuant to the requirements of 31 U.S.C. 3515(b). The statements are prepared from the books and records of the Commission in accordance with Federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same books and records. The financial statements should be read with the understanding that they are for a component of the U.S. Government.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT STATEMENT OF ASSURANCE

The Federal Maritime Commission is responsible for managing risks and maintaining effective internal control and financial management systems that meet the objectives of Sections 2 and 4 of the Federal Managers' Financial Integrity Act. This includes conducting assessments to determine the effectiveness of internal control and conformance with financial system requirements. The Commission conducted its assessments in accordance with OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*.

The Commission's assessments considered the effectiveness of internal control over operations, financial reporting, and compliance with applicable laws and regulations. The objectives are to ensure the effectiveness and efficiency of operations, the reliability of reporting for internal and external use, and compliance with applicable laws and regulations.

Based on the results of this assessment, the Commission can provide reasonable assurance that its internal control over operations, financial reporting, and compliance were operating effectively as of September 30, 2021. No material weaknesses were found in the design or operation of internal control over financial reporting.

The Commission also assessed its financial management systems' conformance with financial system requirements, in accordance with the requirements of OMB Circular No. A-123, Appendix D. Based on this assessment, the FMC can provide reasonable assurance that its financial management systems conform to these requirements and no material non-conformances or instances of noncompliance were identified.

/s/

Daniel B. Maffei
Chairman
November 15, 2021

PART TWO
ANNUAL PERFORMANCE REPORT

Fiscal Year 2021

ANNUAL PERFORMANCE REPORT

INTRODUCTION

The FMC's performance management system includes specific strategic goals, performance measures, and targets. The strategic goals represent the FMC's mission and reflect the overall outcomes and objectives the agency strives to achieve. This report describes progress towards performance targets in 2021 in furtherance of the Commission's mission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The FMC's current strategic goals and objectives are:

Strategic Goal 1: Maintain a Competitive and Reliable International Ocean Transportation Supply System.

- Ensure that actions under filed agreements do not result in unreasonable increases in transportation costs and/or unreasonable decreases in transportation services.

Strategic Goal 2: Protect the Public from Unlawful, Unfair, and Deceptive Ocean Transportation Practices.

- Identify and take action to end unlawful, unfair, and deceptive practices.
- Prevent public harm through licensing and financial responsibility requirements.
- Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.
- Impartially resolve international shipping disputes through alternative dispute resolution and adjudication.

Each measure, target, and actual result is reported in Table 1 and includes a description of the data used to measure performance, and an explanation of the procedures in place to validate and ensure integrity of the reported result. Eight performance measures in support of the Commission's strategic goals were quantitatively measured during the fiscal year. Despite adjustments made to some business processes in reaction to the COVID-19 pandemic and the Commission's continuing posture of maximum telework, the Commission exceeded seven of its FY 2021 targets. The first target under Strategic Goal 1 was not met as the majority of agreement filings received in FY 2021 became effective upon filing, and very few agreements filed during the year posed competitive concerns. Few agreements were sent to the Commission for review, and it did not take action to modify any agreements through negotiation to mitigate anticompetitive effects, therefore, the target was unmet.

Table 2 presents the Commission's five-year performance trend data. The Commission's commitment to continuously improve and streamline processes is evidenced in its year-over-year positive performance results.

This Performance and Accountability Report (inclusive of this Annual Performance Report) has been forwarded to the President, OMB Director, appropriate Congressional committees, and others as dictated by OMB Circular A-136, Revised. Additionally, this report has been placed on the FMC's public website to ensure that it is accessible to interested parties. All Commission employees have been advised to review this report.

Table 1: Summary of Performance Measure Results – FY 2021

Targeted performance compared to actual results.

Performance Measure	FY 2021 Target	FY 2021 Actual
Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.		
Measure: Percentage of FMC-filed agreements reviewed at Commission level which are modified through negotiation to mitigate anticompetitive effects. **Validation**: This outcome goal is measured using data derived from the eAgreements electronic filing system which identifies agreements requiring Commission-level review. Each of those filings is then examined to determine whether any changes were made to the originally filed agreement that mitigated anticompetitive effects of the agreement. This measure is tracked on an ongoing basis.	53%	20%
Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information including market-distorting behavior. **Validation**: This outcome goal is measured using data contained in the eMonitoring system used for the electronic filing of agreement monitoring submissions. Performance is measured by comparing the file receipt date to the date that the filing was reviewed by staff analysts. The data is constantly under review and frequently updated.	68%	85%
Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices.		
Performance Measure	**FY 2021 Target**	**FY 2021 Actual**
Measure: Percentage of enforcement actions taken under the Shipping Act of 1984 successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice. **Validation:** This outcome goal is measured by examining enforcement case inventory and physically counting the number of cases resolved. The inventory is maintained for case load management, and monthly and quarterly reporting purposes. The data is constantly under review and frequently updated.	77.5%	90.3%
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with the appropriate character and experience requirements. **Validation:** This outcome goal is measured by comparing data fields in an internal database that contains, among other data points, the date the OTI license application is accepted for processing and the date a licensing determination is made or the application process has been completed. The difference between these two dates is the length of time to render a decision on an OTI application accepted for processing. The database is maintained for daily case load management, and monthly and quarterly reporting purposes. The data is constantly under review and frequently updated.	75%	98.8%
Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty. **Validation:** This outcome goal is measured by comparing reported financial coverage amounts against required coverage amounts. Approximately 200 cruise vessels are registered in and monitored by the Commission's Passenger Vessel (Cruise) Operator program. Operators covered by this program file semi-annual, monthly, and weekly unearned passenger revenue reports. This information is used to compare reported coverage against required coverage amounts.	95%	97.9%

Measure: Percentage of key Commission issuances, orders and reports are available through the Commission's website within 5 working days of receipt. **Validation:** This outcome goal is measured by reviewing the workflow processes for posting documents to the Commission's website docket activity logs. The date that each docket activity log is updated with new filings or issuances is compared to the date the document is filed with or issued by the Commission in a particular proceeding. The case logs are used on a daily basis by agency staff and by the public, and as such, any discrepancies are discovered and remedied quickly.	88%	99%
Measure: Percentage of *ombuds* matters and ADR services provided by the Office of Consumer Affairs and Dispute Resolution Services (CADRS) closed within six months. **Validation:** This outcome goal is measured using data maintained by the Commission on each *ombuds* and ADR matter opened. Cases are opened upon the request of the public for assistance and are subject to the normal fluctuations in businesses and consumers seeking help from the Commission. Cases are closed upon resolution, voluntary termination by the parties, or when the CADRS mediator determines that particular issues prevent the possibility for successful negotiation.	65%	100%
Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within two years of filing or Commission initiation. **Validation:** This outcome goal is measured by using docket activity logs maintained by the Commission and used for docket management, and monthly and annual reporting purposes. The docket logs are used on a daily basis by agency staff and by the public, and as such, any discrepancies are discovered and remedied quickly.	70%	75%

Table 2: Performance Measure Trends, FY 2017-2021

Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.					
Performance Measure	**FY2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**
Measure: Percentage of FMC-filed agreements reviewed at Commission level which are modified through negotiation to mitigate anticompetitive effects.					
TARGET	N/A	50%	51%	52%	53%
ACTUAL	N/A	100%	67%	60%	20%
TARGET MET/UNMET	N/A	MET	MET	MET	UNMET
Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information including market-distorting behavior.					
TARGET	N/A	65%	66%	67%	68%
ACTUAL	N/A	89%	79%	91%	85%
TARGET MET/UNMET	N/A	MET	MET	MET	MET
Measure: Percentage share of U.S. containerized cargo moving on other agreement parties' vessels in major U.S. trades.*					
TARGET	41%	N/A	N/A	N/A	N/A
ACTUAL	51%	N/A	N/A	N/A	N/A
TARGET MET/UNMET	MET	N/A	N/A	N/A	N/A
Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices.					
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.					
TARGET	77.5%	77.5%	77.5%	77.5%	77.5%
ACTUAL	82.8%	85.8%	97%	93%	90.3%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with the appropriate character and experience requirements.					
TARGET	75%	75%	75%	75%	75%
ACTUAL	95%	97%	96%	88%	98.8%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty.					
TARGET	95%	95%	95%	95%	95%
ACTUAL	100%	99%	96%	96%	97.9%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of key Commission issuances, orders and reports that are available through the Commission's website within 5 working days of receipt.					
TARGET	82%	84%	84%	86%	88%
ACTUAL	95%	97%	99%	100%	99%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of Ombuds and ADR matters closed within 6 months of request for assistance.					
TARGET	60%*	60.5%*	61%	63%	65%
ACTUAL	99%	97%	98%	99.59%	100%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of formal complaints or Commission initiated orders of investigation completed within two years of filing or Commission initiation.					
TARGET	62%	64%	66%	68%	70%
ACTUAL	79%	38%	43%	100%	75%
TARGET MET/UNMET	MET	UNMET	UNMET	MET	MET
Measure: Number of cases opened and closed each fiscal year using Ombuds and ADR services assisting consumers to recover goods or funds.**					
TARGET	N/A	N/A	N/A	N/A	N/A
ACTUAL	N/A	N/A	N/A	N/A	N/A
TARGET MET/UNMET	N/A	N/A	N/A	N/A	N/A

* This measure was replaced by the first 2 new measures listed under Strategic Goal No. 1 in the Commission's FY 2018-2022 Strategic Plan. For additional historical data on this measure, see Commission PARs posted on its website.

** To more accurately reflect the FMC's performance in this area, this measure was replaced in FY 2017. For additional historical data on this measure, see Commission PARs posted on its website.

PART THREE
FINANCIAL INFORMATION

Fiscal Year 2021

MESSAGE FROM THE CHIEF FINANCIAL OFFICER / DIRECTOR, ENTERPRISE SERVICES

I am pleased to present this Financial Information section for Fiscal Year 2021, and to report that, for the 18th consecutive year, an independent auditor has rendered an unmodified opinion on the FMC's financial statements, identifying no deficiencies in internal control over financial reporting considered to be material weaknesses. The auditor's tests for compliance with selected provisions of applicable laws, regulations and contracts disclosed no instances of noncompliance for FY 2021 reportable under U.S. generally accepted government auditing standards. This demonstrates the Commission's continued record of cost-effective stewardship on behalf of the American people and its commitment to maintaining high standards for the financial management of resources entrusted to it.

The financial statements and related notes were prepared in conformity with accounting principles generally accepted in the U.S., and requirements of OMB Circular A-136, *Financial Reporting Requirements,* revised August 10, 2021, and fairly present the Commission's financial position.

The FMC's financial condition is sound, and its internal controls are sufficient to ensure that its budget authority is not exceeded, and that funds are used efficiently and effectively. The following key accomplishments demonstrate the effectiveness and efficiency of the FMC's acquisition and financial functions during Fiscal Year 2021:

- A continuous record of no material weaknesses, significant control deficiencies, or nonconformance with the FMFIA and other applicable laws and regulations;
- Collecting, in civil enforcement proceedings and user fees, $216,240;
- Continued focus on internal controls and risk management, as mandated by OMB Circular A-123, providing budget information in concise, reliable, and understandable formats;
- Accurate, timely issuance of financial statements as required by the Accountability of Tax Dollars Act of 2002, prepared from, and fully supported by, the books and records of the FMC in accordance with Generally Accepted Accounting Principles (GAAP), standards approved by the Federal Accounting Standards Advisory Board (FASAB), and OMB Circular A-136; and
- Successful implementation of the Digital Accountability and Transparency Act of 2014 (DATA Act), which provides detailed information on the FMC's careful stewardship of resources on the USASpending.gov website.

The FMC strives for exemplary financial management of its resources and will continue to enhance operational efficiency while protecting the interest of the American shipping public. I remain confident that the high level of quality financial management at the Commission will continue in the coming fiscal years.

/s/
Patrick M. Moore
Chief Financial Officer/Director, Enterprise Services
November 15, 2021

PRINCIPAL FINANCIAL STATEMENTS

The principal financial statements presented include:

- Balance Sheet – Presents the combined amounts the agency had to use or distribute (assets) versus the amounts the agency owed (liabilities), and the difference between the two (net position);
- Statement of Net Cost – Presents the annual cost of agency operations. The gross cost less any offsetting revenue is used to determine the net cost;
- Statement of Changes in Net Position – Reports the accounting activities that caused the change in net position during the reporting period;
- Statement of Budgetary Resources – Reports how budgetary resources were made available and the status of those resources at fiscal year-end; and
- Statement of Custodial Activity – Reports collections and their disposition by the agency on behalf of the Treasury General Fund. The FMC acts as custodian and does not have use of these funds.

LIMITATIONS OF THE FINANCIAL STATEMENTS

The principal financial statements have been prepared to report the financial position and results of operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the agency in accordance with GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity. Therefore, liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and the payment of all liabilities other than for contracts can be abrogated by the sovereign entity. Other limitations are included in the footnotes to the principal statements. The accompanying notes are an integral part of these statements.

The Federal Maritime Commission's financial statements were audited by Dembo Jones, P.C., under contract to the FMC's Office of the Inspector General.

REPORT ON THE FINANCIAL STATEMENTS

AUDIT OF THE FEDERAL MARITIME COMMISSION

FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2021 AND 2020

FEDERAL MARITIME COMMISSION
Washington, DC 20573

November 15, 2021

Office of Inspector General

Dear Chairman Maffei and Commissioners Dye, Khouri, Sola, and Bentzel:

I am pleased to provide the attached audit report required by the Accountability for Tax Dollars Act of 2002 (ATDA), which presents an unmodified (clean) opinion on the Federal Maritime Commission's (FMC) fiscal year (FY) 2021 and 2020 financial statements. The audit results indicate that the FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. The Office of Inspector General (OIG) commends the FMC for the noteworthy accomplishment of attaining an unmodified opinion.

The OIG contracted with the independent certified public accounting firm Dembo Jones, P.C. to: perform the audit of the FMC's financial statements for the fiscal years ending September 30, 2021 and 2020; consider internal control over financial reporting; and test the agency's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on the financial statements. The OIG contract required that the audit be performed in accordance with U.S. Generally Accepted Government Auditing Standards and Office of Management and Budget (OMB) audit guidance.

In its audit of the FMC, Dembo Jones found: the financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles; there were no material weaknesses or significant deficiencies in internal control over financial reporting; and no reportable noncompliance issues with the laws and regulations tested.

In connection with the OIG's contract, the OIG reviewed Dembo Jones' report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. Generally Accepted Government Auditing Standards, was not intended to enable the OIG to express, and we do not express, opinions on FMC's financial statements or internal control; or conclusions on compliance with laws and regulations. Dembo Jones is responsible for the attached auditors' report dated November 15, 2021 and the conclusions expressed in the report. However, our review disclosed no instances where Dembo Jones did not comply, in all material respects, with Generally Accepted Government Auditing Standards.

The OIG would like to thank FMC staff; especially the Office of Budget and Finance, for their assistance in helping Dembo Jones and the OIG meet the audit objectives.

Respectfully submitted,

/s/
Jon Hatfield
Inspector General

Attachment

cc: Office of the Managing Director
Office of the General Counsel
Office of Budget and Finance

INDEPENDENT AUDITORS' REPORT

DEMBO·JONES
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Independent Auditor's Report

To Chairman Daniel B. Maffei
Federal Maritime Commission

In our audits of the fiscal years 2021 and 2020 financial statements of Federal Maritime Commission (FMC) we found:

a) FMC's financial statements as of and for the fiscal years ended September 30, 2021 and 2020, are presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles;

b) no material weaknesses in internal control over financial reporting based on the limited procedures we performed; and

c) no reportable noncompliance for fiscal year 2021 with provisions of applicable laws, regulations and contracts we tested.

The following sections discuss in more detail (1) our report on the financial statements, which includes required supplementary information (RSI), such as "Management's Discussion and Analysis"; (2) our report on internal control over financial reporting; (3) our report on compliance with laws, regulations and contracts; and (4) agency comments.

Report on the Financial Statements

In accordance with Generally Accepted Government Auditing Standards (GAGAS) and Office of Management and Budget (OMB) Bulletin No. 21-04, *Audit Requirements for Federal Financial Statements*, we have audited FMC's financial statements. FMC's financial statements comprise the balance sheets as of September 30, 2021, and 2020; the related statements of net cost, changes in net position, budgetary resources and custodial activity for the fiscal years then ended; and the related notes to the financial statements.

We conducted our audits in accordance with U.S. generally accepted government auditing standards. We believe that the audit evidence we obtained is sufficient and appropriate to provide a basis for our audit opinions.

Management's Responsibility for the Financial Statements

FMC's management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the RSI in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in documents containing the audited financial statements and auditor's report, and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) maintaining effective internal control over financial reporting, including the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. U.S. generally accepted government auditing standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. We are also responsible for applying certain limited procedures to RSI and other information included with the financial statements.

An audit of financial statements involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the auditor's assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit of financial statements also involves evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audits also included performing such other procedures as we considered necessary in the circumstances.

Opinion on Financial Statements

In our opinion, FMC's financial statements present fairly, in all material respects, FMC's financial position as of September 30, 2021 and 2020, and its net costs of operations, changes in net position, budgetary resources and custodial activity for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Other Matters

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Although the RSI is not a part of the financial statements, FASAB considers this information to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

FMC's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. We read the other information included with the financial statements in order to identify material inconsistencies, if any, with the audited financial statements. Our audit was conducted for the purpose of forming an opinion on FMC's financial statements. We did not audit and do not express an opinion or provide any assurance on the other information.

Report on Internal Control over Financial Reporting

In connection with our audits of the FMC's financial statements, we considered the FMC's internal control over financial reporting, consistent with our auditor's responsibility discussed below. We performed our procedures related to the FMC's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

Management's Responsibility

FMC management is responsible for maintaining effective internal control over financial reporting, including the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

In planning and performing our audit of FMC's financial statements as of and for the year ended September 30, 2021, in accordance with U.S. generally accepted government auditing standards, we considered the FMC's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the FMC's internal control over financial reporting. Accordingly, we do not express an opinion on the FMC's internal control over financial reporting. We are required to report all deficiencies that are considered significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations and contracts, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described above, and was not designed to identify all deficiencies in internal control that might be material weaknesses and significant deficiencies or to express an opinion on the effectiveness of the FMC's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of the FMC's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of the FMC's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations and Contracts

In connection with our audits of FMC's financial statements, we tested compliance with selected provisions of applicable laws, regulations and contracts, consistent with our auditor's responsibility discussed below. We caution that noncompliance may occur and not be detected by these tests. We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

<u>Management's Responsibility</u>

FMC management is responsible for complying with laws, regulations and contracts applicable to FMC.

<u>Auditor's Responsibility</u>

Our responsibility is to test compliance with selected provisions of applicable laws, regulations and contracts applicable to FMC that have a direct effect on the determination of material amounts and disclosures in FMC's financial statements, and perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations and contracts applicable to FMC.

<u>Results of Our Tests for Compliance with Laws, Regulations and Contracts</u>

Our tests for compliance with selected provisions of applicable laws, regulations and contracts disclosed no instances of noncompliance for fiscal year 2021 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations and contracts applicable to FMC. Accordingly, we do not express such an opinion.

<u>Intended Purpose of Report on Compliance with Laws, Regulations and Contracts</u>

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations and contracts, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations and contracts is not suitable for any other purpose.

Dembo Jones, P.C.

Rockville, Maryland
November 15, 2021

APPENDIX A

FEDERAL MARITIME COMMISSION COMMENTS ON AUDIT REPORT

Federal Maritime Commission
Washington, DC 20573

Office of the
Managing Director

November 15, 2021

Donald K. Marshall, CPA
Dembo Jones, P.C.
6116 Executive Boulevard, Suite 500
North Bethesda, MD 20852

Dear Mr. Marshall:

I have reviewed the financial statements audit report for the Federal Maritime Commission for fiscal year 2021. I concur with the audit report's findings that the financial statements fairly present the Commission's financial position during the fiscal year ending September 30, 2021, and that the financial statements are in conformity with U.S. Generally Accepted Accounting Principles; that the FMC has maintained, in all material respects, effective internal control over financial reporting; and that there were no instances of reportable noncompliance with laws and regulations tested by the auditors.

The Commission appreciates Dembo Jones' work over the past fiscal year.

Sincerely,

/s/
Patrick M. Moore
Chief Financial Officer / Director, Enterprise Services

APPENDIX B

FEDERAL MARITIME COMMISSION FINANCIAL STATEMENTS

FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020

Table of Contents

The accompanying notes are an integral part of these financial statements.

BALANCE SHEET
AS OF SEPTEMBER 30, 2021 AND 2020
(In Dollars)

	2021	2020
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 8,407,506	$ 8,239,096
Advances and Prepayments	-	14,584
Total Intragovernmental	8,407,506	8,253,680
With the Public:		
Accounts Receivable, Net (Note 3)	85,469	85,609
General Property, Plant, and Equipment, Net (Note 4)	-	5,612
Total With the Public	85,469	91,221
Total Assets	$ 8,492,975	$ 8,344,901
	-	-
Liabilities (Note 5):		
Intragovernmental:		
Accounts Payable	$ 56,034	$ 77,636
Other Liabilities (Note 6)	335,890	298,355
Other Liabilities (Without Reciprocals) (Note 6)	67,962	64,925
Liability to the General Fund of the U.S. Government for Custodial and Other Non-Entity Assets (Note 6)	77,760	79,490
Benefit Program Contributions Payable (Note 6)	190,168	153,940
Total Intragovernmental	391,924	375,991
	-	-
With the Public:	_	_
Accounts Payable	669,126	1,153,165
Federal Employee Benefits Payable	1,719,295	1,635,794
Other Liabilities (Note 6)	951,569	915,173
Total With the Public	3,339,990	3,704,132
Total Liabilities	$ 3,731,914	$ 4,080,123
Net Position:		
Unexpended Appropriations - Funds from Other than Dedicated Collections	$ 6,410,608	$ 5,858,992
Cumulative Results of Operations - Funds from Other than Dedicated Collections	(1,649,547)	(1,594,214)
Total Net Position	4,761,061	4,264,778
Total Liabilities and Net Position	$ 8,492,975	$ 8,344,901

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

		2021		2020
Gross Program Costs:				
Operational and Administrative:				
Gross Costs	$	30,319,630	$	28,769,515
Less: Earned Revenue		(95,100)		(89,149)
Net Program Costs	$	30,224,530	$	28,680,366
Office of Inspector General:				
Gross Costs	$	527,021	$	580,585
Less: Earned Revenue		(710)		-
Net Program Costs	$	526,311	$	580,585
Net Cost of Operations	$	30,750,841	$	29,260,951

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

		2021			2020
Unexpended Appropriations:					
Beginning Balances	$	5,858,992		$	6,130,844
Appropriations Received		30,300,000			28,000,000
Other Adjustments		(233,423)			(229,916)
Appropriations Used		(29,514,961)			(28,041,936)
Net Change in Unexpended Appropriations		551,616			(271,852)
Total Unexpended Appropriations - Ending	$	6,410,608		$	5,858,992
Cumulative Results of Operations:					
Beginning Balances	$	(1,594,214)		$	(1,401,765)
Appropriations Used		29,514,961			28,041,936
Transfers In/Out Without Reimbursement		26,715			-
Imputed Financing (Note 9)		1,153,832			1,026,536
Other		-			30
Net Cost of Operations		(30,750,841)			(29,260,951)
Net Change in Cumulative Results of Operations		(55,333)			(192,449)
Cumulative Results of Operations - Ending	$	(1,649,547)	#	$	(1,594,214)
Net Position	$	4,761,061		$	4,264,778

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

		2021		2020
Budgetary Resources:				
Unobligated balance from prior year budget authority, net	$	2,522,049	$	1,525,442
Appropriations		30,300,000		28,000,000
Spending authority from offsetting collections		122,525		89,179
Total Budgetary Resources	$	32,944,574	$	29,614,621
Status of Budgetary Resources:				
New obligations and upward adjustments (total)	$	30,247,419	$	27,584,164
Unexpired unobligated balance, end of year		238,875		588,559
Expired unobligated balance, end of year		2,458,280		1,441,898
Unobligated balance, end of year (total)		2,697,155		2,030,457
Total Budgetary Resources	$	32,944,574	$	29,614,621
Outlays, Net and Disbursements, Net:				
Outlays, net (total)		29,898,167		26,781,791
Distributed Offsetting Receipts		(216,490)		(191,075)
Agency outlays, net	$	29,681,677	$	26,590,716

FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020
(In Dollars)

		2021		2020
Total Custodial Revenue:				
Sources of Cash Collections:				
Miscellaneous	$	216,240	$	188,693
Total Cash Collections (Note 12)		216,240		188,693
Accrual Adjustments		(1,731)		77,637
Total Custodial Revenue		214,509		266,330
Disposition of Collections:				
Transferred to Others (by Recipient)		216,240		188,693
Increase/(Decrease) in Amounts Yet to be Transferred		(1,731)		77,631
Retained by the Reporting Entity		-		6
Total Disposition of Collections		214,509		266,330
Net Custodial Activity	$	-	$	-

FEDERAL MARITIME COMMISSION
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC or Commission) was established as an independent regulatory agency on August 12, 1961. The FMC is responsible for the regulation of oceanborne 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 (FSPA), section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777.

The Commission monitors the activities of ocean common carriers, marine terminal operators (MTOs), agreements among ocean common carriers and/or MTOs, ports and ocean transportation intermediaries (non-vessel-operating common carriers and ocean freight forwarders) operating in the U.S. foreign commerce to ensure they maintain just and reasonable practices; maintains trade monitoring, enforcement and dispute resolution programs designed to assist regulated entities in achieving compliance and to detect and remedy malpractices and violations of the 1984 Act; monitors the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in U.S. trades, and imposes remedial action, as appropriate, pursuant to section 19 of the 1920 Act or FSPA; enforces special regulatory requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements, service contracts, and service arrangements pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility and accuracy, as required by OSRA.

The FMC also issues licenses to qualified ocean transportation intermediaries (OTIs) in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators (PVOs) demonstrate adequate financial responsibility in case of nonperformance of voyages or death or injury occurring to passengers.

The FMC 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, who is the chief executive and administrative officer of the FMC.

The FMC reporting entity is comprised of General Funds and General Miscellaneous Receipts. General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues. General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The FMC makes custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year-end. The FMC has rights and ownership of all assets reported in these financial statements. FMC does not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of FMC. The Balance Sheet presents the financial position of the Commission. The Statement of Net Cost presents the Commission's operating results; the Statement of Changes in Net Position displays the changes in the Commission's equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the Commission's resources and follows the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990 and the Government Management Reform Act of 1994. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards issued by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements,* as amended, and FMC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control FMC's use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

FBWT is an asset of a reporting entity and a liability of the General Fund. It is the aggregate amount of the FMC's funds with Treasury in expenditure, receipt, revolving, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The FMC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. When the reporting entity seeks to use FBWT or investments in Government securities to liquidate budgetary obligations, Treasury will finance the disbursements in the same way it finances all other disbursements, which is to borrow from the public if there is a budget deficit (and to use current receipts if there is a budget surplus). Funds are disbursed for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to FMC by other Federal agencies and the general public. Amounts due from Federal agencies are considered fully collectible. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. FMC's capitalization threshold is $25,000 for individual purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Leasehold Improvements	5
Office Furniture	5
Computer Equipment	5
Office Equipment	5
Software	5

G. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the FMC as a result of transactions or events that have already occurred.

The FMC reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities with the Public represent funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, actuarial Federal Employees' Compensation Act (FECA), and the amounts due to Treasury for collection and accounts receivable of civil penalties and FOIA request fees.

I. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Non-vested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (OPM) upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees.

J. Accrued and Actuarial Workers' Compensation

The FECA administered by the U.S. Department of Labor (DOL) addresses all claims brought by the FMC employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the FMC terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

K. Retirement Plans

FMC employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of FMC matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to one percent of pay and FMC matches any employee contribution up to an additional four percent of pay. For FERS participants, FMC also contributes the employer's matching share of Social Security.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, FMC remits the employer's share of the required contribution.

The FMC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to FMC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. FMC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

FMC does not report on its financial statement's information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM, as the administrator.

L. Other Post-Employment Benefits

FMC employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGLIP) may continue to participate in these programs after their retirement. The OPM has provided the FMC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The FMC recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM and offset by the FMC through the recognition of an imputed financing source.

M. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. The FMC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made.

O. Reclassification

Certain fiscal year 2020 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

P. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2021 and 2020, were as follows:

	2021	2020
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 238,875	$ 588,559
Unavailable	2,458,280	1,441,898
Obligated Balance Not Yet Disbursed	5,710,351	6,208,639
Total	$ 8,407,506	$ 8,239,096

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

The available unobligated fund balances represent the current period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the fund balance on hand (see also Note 10).

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2021 and 2020, were as follows:

	2021	2020
With the Public		
Miscellaneous Accounts Receivable	$ 84,664	$ 85,306
Interest Receivable	195	70
Penalties and Fines Receivable	610	233
Total Accounts Receivable	$ 85,469	$ 85,609

The accounts receivable is primarily made up of services provided to the public. Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2021 and 2020.

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT, NET

Schedule of General Property, Plant and Equipment, Net as of September 30, 2021:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 225,000	$ 225,000	-
Furniture & Equipment	316,289	316,289	-
Total	$ 541,289	$ 541,289	$ -

Schedule of General Property, Plant and Equipment, Net as of September 30, 2020:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 225,000	$ 225,000	-
Furniture & Equipment	316,289	310,677	5,612
Total	$ 541,289	$ 535,677	$ 5,612

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2021 and 2020, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2021	2020
Unfunded Leave	$ 1,683,770	$ 1,605,943
Total Liabilities Not Covered by Budgetary Resources	$ 1,683,770	$ 1,605,943
Total Liabilities Covered by Budgetary Resources	1,970,384	2,394,690
Total Liabilities Not Requiring Budgetary Resources	77,760	79,490
Total Liabilities	$ 3,731,914	$ 4,080,123

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

NOTE 6. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2021 were as follows:

	Current	Total
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 67,962	$ 67,962
Custodial Liability (to the General Fund)	77,700	77,700
Liability for Non-Entity Assets Not Reported on the Statement of Custodial Activity (to the General Fund)	60	60
Employer Contributions and Payroll Taxes Payable	190,118	190,118
Other Post Employment Benefits Due and Payable	50	50
Total Intragovernmental Other Liabilities	$ 335,890	$ 335,890
With the Public		
Accrued Funded Payroll and Leave	$ 951,569	$ 951,569
Total Public Other Liabilities	$ 951,569	$ 951,569
Total Other Liabilities	$ 1,287,459	$ 1,287,459

Other liabilities account balances as of September 30, 2020 were as follows:

	Current	Total
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 64,925	$ 64,925
Custodial Liability (to the General Fund)	79,430	79,430
Liability for Non-Entity Assets Not Reported on the Statement of Custodial Activity (to the General Fund)	60	60
Employer Contributions and Payroll Taxes Payable	153,940	153,940
Total Intragovernmental Other Liabilities	$ 298,355	$ 298,355
With the Public		
Accrued Funded Payroll and Leave	$ 915,173	$ 915,173
Total Public Other Liabilities	$ 915,173	$ 915,173
Total Other Liabilities	$ 1,213,528	$ 1,213,528

NOTE 7. OPERATING LEASES

FMC occupies office space in five locations, of which four of the lease agreements are required to be accounted for as operating leases. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The total operating lease expense for the periods ended September 30, 2021 and 2020, respectively, were $3,646,836 and $3,123,201. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Iselin, NJ	10 years	11/30/2023
Tacoma, WA	10 years	10/31/2031
Houston, TX	15 years	10/1/2033
Washington, DC	15 years	10/31/2037

The operating lease amount does not include estimated payments for leases with annual renewal options. The schedule of future payments for the term of the leases is as follows:

Fiscal Year	Totals Federal
2022	$ 3,674,487
2023	96,077
2024	1,936,234
2025	3,256,041
2026	3,291,320
Thereafter	40,183,880
Total Future Minimum Payments	$ 52,438,039

NOTE 8. COMMITMENTS AND CONTINGENCIES

FMC did not have any material contingent liabilities that met disclosure requirements as of September 30, 2021 and 2020.

NOTE 9. INTER-ENTITY COSTS

FMC recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost and are offset by imputed revenue. Such imputed costs and revenues relate to employee benefits and claims to be settled by the Treasury Judgement Fund. FMC recognizes as inter-entity costs the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the periods ended September 30, 2021 and 2020, respectively, inter-entity costs were as follows:

	2021	2020
Office of Personnel Management	$ 1,153,832	$ 1,026,536
Total Imputed Financing Sources	$ 1,153,832	$ 1,026,536

NOTE 10. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2021, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	$ 998,579	$ 2,741,390	$ 3,739,969
Total Undelivered Orders	$ 998,579	$ 2,741,390	$ 3,739,969

As of September 30, 2020, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Paid Undelivered Orders	$ 14,584	$ -	$ 14,584
Unpaid Undelivered Orders	1,454,064	2,359,886	3,813,950
Total Undelivered Orders	$ 1,468,648	$ 2,359,886	$ 3,828,534

NOTE 11. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President's Budget that will include fiscal year 2021 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2022 and can be found at the OMB Web site: *http://www.whitehouse.gov/omb/.* The 2022 Budget of the United States Government, with the "Actual" column completed for 2020, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments	Net Outlays
Combined Statement of Budgetary Resources	$ 30	$ 28	$ 27
Unobligated Balance Not Available	(1)	(1)	-
Difference - Due to Rounding	(1)	-	-
Budget of the U.S. Government	$ 28	$ 27	$ 27

NOTE 12. CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for another entity or the General Fund. As a collecting entity, FMC measures and reports cash collections and refunds. These collections are reported as custodial activity on the "Statement of Custodial Activity." The type of cash collected is for fines, penalties, and administrative fees. A small portion is for interest on the past due fines. Another component of the custodial revenue is general proprietary receipts (User Fees) for the application of licenses issued to qualified Ocean Transportation Intermediaries (OTI's) in the U.S., FMC reviews petitions, status changes and special permission fees. FMC believes that all fines, penalties, administrative fees and user fees will be collected in full. There are no material uncollectible accounts as of September 30, 2021 and 2020.

Custodial collections are reported on the Statement of Custodial Activity. The miscellaneous receipts are broken out in the general receipt funds as follows:

	2021	2020
Fines, Penalties, and Forfeitures	$ -	$ 103
General Fund Proprietary Receipts (User fees)	216,490	190,950
Refunds of Proprietary Receipts (User fees)	(250)	(2,375)
Interest	-	15
Total Custodial Collections	$ 216,240	$ 188,693

NOTE 13. RECONCILIATION OF NET COST TO NET OUTLAYS

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

Reconciliation of Net Cost Outlays as of September 30, 2021:

	Intragovernmental	With the Public	Total
Net Operating Cost (SNC)	$ 10,932,169	$ 19,818,672	$ 30,750,841
Components of Net Cost Not Part of the Budgetary			
Property, Plant, and Equipment Depreciation Expense	-	(5,612)	(5,612)
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	(140)	(140)
Other Assets	(14,584)	-	(14,584)
(Increase)/Decrease in Liabilities:			
Accounts Payable	21,601	484,039	505,640
Federal Employee and Veteran Benefits Payable	-	(83,501)	(83,501)
Other Liabilities	(39,265)	(36,396)	(75,661)
Financing Sources:			
Imputed Cost	(1,153,832)	-	(1,153,832)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	$ (1,186,080)	$ 358,390	$ (827,690)
Components of the Budget Outlays That Are Not Part			
Financing Sources:			
Transfers Out (In) Without Reimbursements	(26,715)	-	(26,715)
Total Components of the Budget Outlays That Are Not Part of Net Operating Cost	$ (26,715)	$ -	$ (26,715)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	-	(216,490)
Custodial/Non-Exchange Revenue	216,240	(214,509)	1,731
Total Other Reconciling Items	$ 216,240	$ (214,509)	$ (214,759)
Total Net Outlays (Calculated Total)	$ 9,935,614	$ 19,962,553	$ 29,681,677
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			$ 29,681,677

Reconciliation of Net Cost Outlays as of September 30, 2020:

	Intragovernmental		With the Public		Total	
Net Operating Cost (SNC)	$	9,895,354	$	19,365,597	$	29,260,951
Components of Net Cost Not Part of the Budgetary						
Property, Plant, and Equipment Depreciation Expense		-		(37,497)		(37,497)
Increase/(Decrease) in Assets:						
Accounts Receivable, Net		-		76,902		76,902
Other Assets		14,584		-		14,584
(Increase)/Decrease in Liabilities:						
Accounts Payable		(74,609)		(868,686)		(943,295)
Federal Employee and Veteran Benefits Payable		-		(160,952)		(160,952)
Other Liabilities		(52,626)		(272,213)		(324,839)
Financing Sources:						
Imputed Cost		(1,026,536)		-		(1,026,536)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	$	(1,139,187)	$	(1,262,446)	$	(2,401,633)
Misc Items						
Distributed Offsetting Receipts (SBR 4200)		-		-		(191,075)
Custodial/Non-Exchange Revenue		188,693		(266,330)		(77,637)
Non-Entity Activity		110		-		110
Total Other Reconciling Items	$	188,803	$	(266,330)	$	(268,602)
Total Net Outlays (Calculated Total)	$	8,944,970	$	17,836,821	$	26,590,716
Budgetary Agency Outlays, Net (SBR 4210)						
Budgetary Agency Outlays, Net					$	26,590,716

PART FOUR
OTHER INFORMATION

Fiscal Year 2021

INSPECTOR GENERAL'S STATEMENT ON MANAGEMENT AND PERFORMANCE CHALLENGES

FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 15, 2021

Office of Inspector General

TO: Chairman Maffei
Commissioner Dye
Commissioner Khouri
Commissioner Sola
Commissioner Bentzel

FROM: Inspector General

SUBJECT: Inspector General's Statement on the Federal Maritime Commission's Management and Performance Challenges

The Reports Consolidation Act of 2000 (Public Law 106-531) requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies, and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for fiscal year (FY) 2021.

Similar to last year, the Office of Inspector General (OIG) has identified the ***Coronavirus Disease 2019 (COVID-19) pandemic*** and ***information technology (IT) security*** to be management and performance challenges. Both issues are also government-wide challenges and not unique to the FMC. In addition, the OIG has added a third issue to this year's annual management and performance challenge report, ***high turnover in senior positions.*** The OIG's assessment for all three issues is based on information derived from a combination of sources, including OIG evaluation work; Commission reports; Federal government reports; and a general knowledge of the Commission's programs.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the FMC PAR that is due by November 15, 2021.

/s/

Jon Hatfield

Attachment

Cc: Lucille L. Marvin, Managing Director
Patrick M. Moore, Director, Enterprise Services/Chief Financial Officer
Steven J. Andersen, General Counsel
Kathie L. Keys, Special Assistant to the Managing Director

Office of Inspector General (OIG)
Fiscal Year 2021 Management Challenges

The Management Challenge - *Coronavirus Disease 2019 (COVID-19) Pandemic*

In 2021, COVID-19 continued to present significant challenges in the United States and globally due to the serious health and economic issues. Challenges continued, but the FMC worked to effectively fulfill its mission during the pandemic. The agency's mission is to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The Commission has been focused on COVID-19-related impacts on ocean shipping and the cruise industry while at the same time ensuring workplace health and safety.

The FMC has effectively utilized computer technology, and with the implementation of remote work processes, the important and vital work of the FMC has continued during the pandemic. The FMC continued maximum telework flexibility for its entire workforce during 2021. The agency's headquarters has remained open throughout the pandemic and several employees continue to work in their offices in Washington, D.C.

Agency Progress and the Challenge Ahead

Throughout 2021, management has devoted considerable time on planning for a workplace transition and reentry, a point in time when COVID-19 conditions will be suitable to safely return to the office. This planning involves significant communication with the workforce, including listening sessions, an all-hands Town Hall meeting, newsletters, and regular meetings for all staff. Planning also involves monitoring Federal guidance, local COVID-19 conditions at the FMC headquarters and FMC's Area Representative field offices, and requirements provided by the Safer Federal Workforce Task Force.

In the summer of 2021, the Centers for Disease Control and Prevention (CDC) recognized a significant increase in new COVID-19 cases reversed what had been a steady decline. CDC reported a rapid and alarming rise in the COVID-19 case and hospitalization rates around the country, to include the Washington, D.C. metro area where the FMC is headquartered. Due to the surge in COVID-19 cases, Federal agencies including FMC had to re-implement the requirement to wear masks when in the office, regardless of vaccination status. In addition, like all Federal agencies, the FMC has been working to implement the requirement that all FMC employees and contractors without a legal required exception need to be fully vaccinated by November 22, 2021.

As a result of the changing COVID-19 situation and the lack of significant improvement in conditions, in the fall of 2021 the agency decided to delay the workplace transition and reentry dates previously contemplated and new dates have been established. Chairman Maffei reiterated the agency's commitment to the safety and health of Commission employees, contractors, and the public, and this will continue to lead the agency's considerations and discussions regarding a return to the workplace. The OIG will continue to be engaged with agency management on their planning and decisions to return to a pre-COVID-19 operational workplace status safely and effectively.

The Management Challenge - *Information Technology (IT) Security*

Over the last several years and continuing in FY 2021, the OIG's audit work has found the FMC to be focused on maintaining an effective IT security program. The FMC is highly dependent on IT systems and electronic data to carry out agency operations and to process, maintain, and report essential information. Therefore, the security of these systems and data is vital to ensure the **confidentiality**, integrity, and availability of FMC systems and information. Risks to the FMC's IT systems can include insider threats from witting or unwitting employees, escalating and emerging threats from around the globe, and new and more destructive attacks.

The Government Accountability Office (GAO) has designated information security as a government-wide high-risk area since 1997. GAO expanded this high-risk area in 2003 to include protection of critical cyber infrastructure and, in 2015, to include protecting the privacy of personally identifiable information (PII). GAO's high-risk program focuses attention on government operations that GAO identifies as high-risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.

Agency Progress and the Challenge Ahead

The Federal Information Security Modernization Act (FISMA) establishes information security program and evaluation requirements for Federal agencies in the executive branch, including the FMC. Each year, the OIG oversees an independent FISMA audit of the information security program and practices of the agency. The results of the audit are reported annually to the Office of Management and Budget (OMB); selected congressional committees; the Comptroller General; and the FMC's Commission and management.

The preliminary results of the OIG's *Fiscal Year 2021 Audit of the FMC's Compliance with the Federal Information Security Modernization Act (FISMA)* indicate the FMC resolved one of the prior year audit recommendations and made progress towards implementing the other FISMA audit recommendation. Specifically, the Office of Management Services (OMS) updated the Acquisition policy with necessary IT security language. In addition, the FY 2020 FISMA audit found that although the FMC has various information technology security policies and procedures, several had not been reviewed or updated in a timely manner, or they were lacking from development into a formalized policy. The OIG recommended the agency review, update, and finalize the applicable policies and procedures in accordance with Federal and agency requirements. Overall, the FY 2021 FISMA preliminary audit results indicate the FMC has an effective information security program.

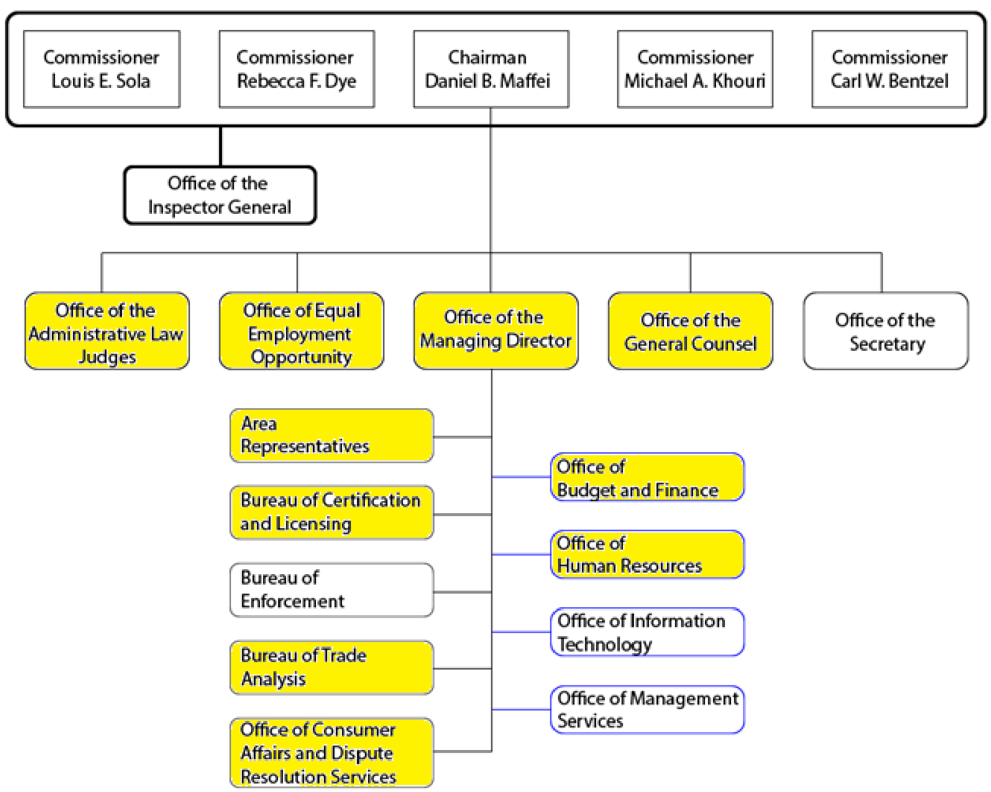
Significant cybersecurity incidents in the Federal government in recent years highlight those continued advancements in computer and communication technologies will likely result in ongoing challenges protecting Federal systems, to include the FMC. Particularly because of the FMC's small size and limited resources, it is critical for the FMC to prioritize security controls and enhancements based on risk and continue to properly plan and partner with Federal agencies to protect vital agency resources.

<u>The Management Challenge – *High Turnover in Senior Positions*</u>

In the last three years, the FMC has experienced a high turnover in senior management positions due to employee retirements and separations. The high turnover in senior positions is particularly challenging for a small organization like the FMC because all the FMC bureaus and offices lack multiple management layers to draw upon when senior leadership turnover occurs. Although the FMC was relatively quick to fill these positions and with very qualified and competent individuals, the turnover of many talented and very experienced senior leaders in a relatively short period of time has resulted in the loss of institutional knowledge and expertise that required many years to develop.

Figure 1 below illustrates the senior leadership turnover in the last three years. Specifically, in 2019, the agency experienced senior leadership turnover in the Office of Budget and Finance, Office of the Area Representatives, and Office of the Administrative Law Judges. In 2020, the Bureau of Certification and Licensing, Office of General Counsel, Office of Consumer Affairs and Dispute Resolution, and Office of Human Resources had senior leadership change. Finally, in 2021 through September, the Bureau of Trade Analysis, Office of the Managing Director, and the Office of Equal Employment Opportunity experienced changes in senior leadership.

Figure 1 – FMC Organizational Chart



In September 2020, the OIG completed an audit survey of the agency's succession planning process. One of the outcomes of the audit survey included highlighting the importance of succession planning, a process defined as any effort to ensure the continued effective performance of an organization, division, department, or work group by making provisions for the development, replacement, and strategic application of key people over time. Our survey work, including a review of workforce planning documents and interviews with the Office of Human Resources Director and Technical Lead did not reveal any problem areas that warranted further OIG review in the near term. The OIG found that the agency had implemented some succession planning best practices and has access to and utilizes a variety of information to assist the Commission in identifying trends for succession planning purposes. While the OIG made no recommendations at the completion of the audit survey, the OIG did provide suggestions for the agency to consider to improve their succession planning process. The main suggestion for management consideration was the implementation of a Succession Management Plan for key positions. FMC management agreed to consider the OIG's suggestions and was responsive to the OIG's work.

Agency Progress and the Challenge Ahead

Agency management recognizes the unusually high rate of retirements and separations in management and other positions and has been taking steps to address this issue. For the last several years, the FMC has been very focused on improving employee engagement. Specifically, the Partnership for Public Service's ***Best Places to Work*** Rankings, derived from the Office of Personnel Management's Federal Employee Viewpoint Survey (FEVS), is a survey to measure employee engagement. The rankings help Federal agencies measure employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agency. In the 2020 rankings, the FMC moved up three places from number ten to number seven. The FMC has remained in the ***Top 10 Best Places to Work for Small Agencies*** since 2018. A highly engaged workforce increases the likelihood of retaining staff and being able to effectively recruit new experienced and talented staff.

COMMENTS ON INSPECTOR GENERAL'S STATEMENT

The Commission welcomes the Inspector General's assessment of the most serious management and performance challenges facing the Federal government in general, and how these affect the FMC. The Commission appreciates the OIG's continuing engagement with management on the planning and decision-making process to safely return to a pre-COVID-19 operational status. Annual FISMA audits and the Inspector General's recommendations for strengthening the Commission's IT security controls continue to play an essential role in keeping the Commission up-to-date on significant risks and challenges, and are invaluable in aiding to protect its resources. The Commission's work on succession planning and being able to quickly fill senior-level and other vacant positions at the Commission has helped to mitigate the effects of the unprecedented high turnover rate experienced over the last several years. The Commission intends to continue its efforts to improve employee engagement and retain its place among the *Top 10 Best Places to Work for Small Agencies*.

FINANCIAL STATEMENT AUDIT SUMMARY

Table 1 is a summary of the results of the independent audit of the FMC's financial statements by the agency's auditors in connection with the FY 2021 audit.

Table 1. Summary of Financial Statement Audit					
Audit Opinion	Unmodified				
Restatement	No				
Material Weaknesses	**Beginning balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
None	n/a	n/a	n/a	n/a	n/a
Total Material Weaknesses	None	None	n/a	n/a	None

MANAGEMENT ASSURANCES SUMMARY

Table 2 is a summary of management assurances related to the effectiveness of internal control over the FMC's financial reporting and operations, and its conformance with financial management system requirements under Sections 2 and 4, respectively, of the FMFIA. This table also summarizes compliance with the FFMIA, which is not applicable to the Commission.

Table 2. Summary of Management Assurances						
Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
[name of weakness]	None	n/a	n/a	n/a	n/a	None
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Compliance with Federal Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
[name of noncompliance]	None	n/a	n/a	n/a	n/a	None
Total noncompliance	None	n/a	n/a	n/a	n/a	None

Compliance with Section 803(a) of the Federal Financial Management Improvement Act (FFMIA)		
	Agency	**Auditor**
1. Federal Financial Management System Requirements	FFMIA does not apply to the FMC	n/a
2. Applicable Federal Accounting Standards	FFMIA does not apply to the FMC	n/a
3. USSGL at Transaction Level	FFMIA does not apply to the FMC	n/a

IMPROPER PAYMENTS INFORMATION ACT

The FMC reports its compliance with the Payment Integrity Information Act of 2019 through OMB's annual data call on payment integrity. The FMC's information is provided at www.paymentaccuracy.gov.

FRAUD REDUCTION REPORT

The FMC has a low appetite for fraud. The FMC complies with the *Fraud Risk and Data Analytics Act of 2015* and follows the Standards for Internal Control in the Government through its enterprise risk management program and financial accounting practices. The FMC's Risk Committee, managing risk enterprise-wide, considers fraud risks on a regular basis.

Financial stewardship is an important part of the FMC's risk management strategy. Internal controls and financial and accounting data are subject to multiple levels of monthly and/or annual review performed internally by the FMC and externally by the BFS. The most recent IG risk assessment of the purchase card program, completed in 2020, considered several factors, including: effectiveness of internal controls; training requirements; policies and procedures; any prior problems with the program; and previous audits and reviews. The OIG concluded the risk of illegal, improper, or erroneous use in the FMC's purchase card program is "low." The OIG's next audit or review of the agency's purchase card program will be conducted in 2022.

The Commission has financial and administrative controls in place, including an internal controls policy which provides management and internal control processes for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse and mismanagement. In 2020, the FMC's OIG, with the assistance of independent financial auditors, completed a review of the Commission's administrative control of funds. The *Management Letter on Administrative Control of Funds,* A-20-02a*,* determined that the Commission has an internal control system in place for its funds control and recommended additional opportunities to further strengthen the agency's controls. The Commission's administrative control of funds policy is currently in final review by the Office of Management and Budget.

In addition, the Commission's acquisitions policy protects the integrity of the contracting process, and includes ethical requirements and standards of conduct in accordance with the *Procurement Integrity Act* and Federal Acquisition Regulations.

The FMC does not oversee or have responsibility for any credit, grant, or loan programs. No new programs were initiated in FY 2021, and no current programs are at high risk for fraud, abuse, or exposure to waste.

CIVIL MONETARY PENALTY ADJUSTMENT FOR INFLATION

The *Federal Civil Penalties Inflation Adjustment Act of 1990*, Pub. L. 104-410, as amended by the *Debt Collection Improvement Act of 1996*, Pub. L. 104-134, and the *Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, Pub. L. 114-74, requires agencies to make regular and consistent inflationary adjustments of civil monetary penalties to maintain their deterrent effect. Below are the civil penalties that the FMC may impose, authority for imposing the penalty, dates of inflation adjustments, and current penalty levels. The Federal Register notice (86 FR 2560) may be viewed at: [Federal Register :: Inflation Adjustment of Civil Monetary Penalties.]()

Penalty	Statutory Authority	Date of Previous Adjustment	Date of Current Adjustment	Maximum Penalty
Adverse impact on U.S. carriers by foreign shipping practices	46 U.S.C. 42304	January 15, 2020	January 15, 2021	$2,166,279
Knowing and Willful violation / Shipping Act of 1984, or Commission regulation or order	46 U.S.C. 41107(a)	January 15, 2020	January 15, 2021	$61,820
Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful	46 U.S.C. 41107(b)	January 15, 2020	January 15, 2021	$12,363
Operating in foreign commerce after tariff suspension	46 U.S.C. 41108(b)	January 15, 2020	January 15, 2021	$123,641
Failure to provide required reports, etc. / Merchant Marine Act of 1920	46 U.S.C. 42104	January 15, 2020	January 15, 2021	$9,753
Adverse shipping conditions / Merchant Marine Act of 1920	46 U.S.C. 42106	January 15, 2020	January 15, 2021	$1,950,461
Operating after tariff or service contract suspension / Merchant Marine Act of 1920	46 U.S.C. 42108	January 15, 2020	January 15, 2021	$97,523
Failure to establish financial responsibility for non-performance of transportation*	46 U.S.C. 44102	January 15, 2020	January 15, 2021	$24,634 $822
Failure to establish financial responsibility for death or injury*	46 U.S.C. 44103	January 15, 2020	January 15, 2021	$24,634 $822
Program Fraud Civil Remedies Act / makes false claim	31 U.S.C. 3802(a)(1)	January 15, 2020	January 15, 2021	$11,803
Program Fraud Civil Remedies Act / giving false statement	31 U.S.C. 3802(a)(2)	January 15, 2020	January 15, 2021	$11,803

*These amounts are based on the penalties established in § 44104 for violations of §§ 44102 and 44103: $5,000, plus $200 for each passage sold. These penalties were established in 1966 and, applying the statutory inflation adjustment formula, amount to $24,634, plus $822 for each passage sold, in current dollars.

BIENNIAL REVIEW OF USER FEES

Agencies are required by the *Chief Financial Officers Act of 1990* to conduct biennial reviews of fees and other charges that they impose, and to revise these fees and charges to cover program and administrative costs incurred, as necessary. The Commission voted to update user fees, a direct final rule was published in the Federal Register on November 13, 2020, and became effective on January 27, 2021. User fee rates will next be examined in CY 2022.