

# **FEDERAL MARITIME COMMISSION**



***ANNUAL PROGRAM PERFORMANCE REPORT***

***FOR FY 2002***

**February 2003**

## **INTRODUCTION**

This document comprises the Federal Maritime Commission's Annual Program Performance Report for Fiscal Year 2002, as required by the Government Performance and Results Act ("GPRA"). It has been prepared in accordance with OMB Circular No. A-11, Part 2. This progress report describes the Commission's actual performance in FY 2002 compared with the projected levels of performance we established in our FY 2002 Annual Performance Plan.

This progress report covers the Commission's third full year operating under the new business environment and regulatory changes resulting from the Ocean Shipping Reform Act of 1998 ("OSRA"). The Commission was very active in FY 2002 overseeing the activities of the ocean shipping industry in a manner that facilitated achievement of the new statute's policy objectives. We paid particular attention to the practices of ocean common carriers under their statutory grant of antitrust immunity, so as to address specific actions or proposals that raised the specter of inequitable trading conditions. The Commission also continued its program to assist regulated entities in their efforts to comply voluntarily with the shipping statutes, while expanding its alternate dispute resolution program which provides the industry with a forum for resolving disagreements in a less costly and less litigious manner. Similarly, we made further strides in improving the public's access to pertinent information by making additional documents and issuances available on our Internet website. And our internal operations were enhanced by the selection of specific vendors to handle our personnel/payroll and accounting functions, the latter of which provided us with a government-sanctioned accounting system as well as the ability ultimately to prepare acceptable financial statements.

We are pleased to report overall success in achieving our stated goals and objectives -- we were able to accomplish most of our goals and exceed several. We continue to find that the planning and direction required by the GPRA process facilitates our efforts to attain results-driven objectives.

This report has been forwarded to the President, with a copy to the Director, Office of Management and Budget, and relevant Congressional committees. Additionally, we have placed this report on our Internet website to ensure that it is readily accessible to interested parties, and have advised all Commission employees to take the time to review it.

This report is direct and concise in the manner in which it presents the relevant information. For organizational purposes, and to facilitate review, it repeats the mission statement from our Strategic Plan and briefly summarizes it. We then list the strategic goals we have identified as crucial to accomplish our mission. In order to reflect the linkage between our strategic goals and performance goals, we have organized this report by the five program activities under which we operated in FY 2002. For each of these activities, we state the specific strategic goals that are directly related to the performance goals attendant to that activity. We then state each performance goal, the target level of performance for each, and our actual level of performance regarding that goal. For any performance goal that was not met or not substantially completed, we have provided a specific explanation why the goal was not met, along with the actions and schedule for meeting the goal in the future. Additionally, the last section of this report identifies the performance goals from our FY 2001 Annual Performance Plan which we reported in our FY 2001 Program Performance Report as not having been accomplished or substantially completed, and explains the actions we subsequently took to satisfy the requirements of each such goal.

## FMC MISSION

The Commission established its mission as follows:

***Ensure the Nation's interests are met through an efficient, competitive, market-driven, and nondiscriminatory ocean transportation system that is free of unfair foreign maritime trade practices.***

The Commission acknowledged in its Strategic Plan that the basic principles of liner shipping were being modified. The shipping industry continued to restructure itself while shippers were placing an increasing importance on rates and services. International trade remained dependent upon an efficient and economic ocean transportation system. Given the extremely significant issues the agency was facing, it identified the actions necessary to ensure that its oversight and legislative initiatives produced a competitive and nondiscriminatory trading environment in the U.S. ocean commerce that was in harmony with and responsive to international shipping practices. The Commission set out to focus its energies and efforts on its mission and to ensure that it was organized and managed in a manner best suited to accomplish its mission with a minimum of government intervention and regulatory costs. It also recognized that its actions must encourage the development of a sound U.S.-flag liner fleet.

## FMC STRATEGIC GOALS

In recognition of its stated mission, and in conformity with the Shipping Act of 1984, the FMC established the following four strategic goals:

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
2. *Balanced Enforcement:* Foster economic efficiencies and reliance on marketplace factors by administering U.S. shipping statutes in a balanced and equitable manner that redresses excessive anticompetitive actions and restrictive practices of foreign governments.

3. *Compliance*: Promote the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.
4. *Internal Capabilities*: Ensure the FMC has the organizational ability and the managerial leadership necessary to meet its industry assistance, enforcement and educational responsibilities.

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

## **PROGRESS IN ACHIEVING PERFORMANCE GOALS**

The performance goals of the Commission's FY 2002 Annual Performance Plan were linked directly to the Commission's strategic goals; they were identified as the appropriate means for accomplishing our mission. This section of the report assesses our actual performance in addressing these goals.

## **Budget Program Activity: Formal Proceedings**

### **Related Strategic Goals**

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
4. *Internal Capabilities:* Ensure the FMC has the organizational ability and the managerial leadership necessary to meet its industry assistance, enforcement, and educational responsibilities.

#### **Performance Goal 1:**

*By 9/30/02, implement a process to electronically serve ALJ/Commission issuances in formal proceedings (with assent of litigants).*

**Progress:** The Commission accomplished this goal during fiscal year 2002. Three complex proceedings initially were selected for electronic service of virtually all documents: Docket No. 01-06, *Exclusive Tug Franchises - Marine Terminal Operators Serving the Lower Mississippi River*; Docket No. 02-02, *Canaveral Port Authority – Possible Violations of Section 10(b)(10), Unreasonable Refusal to Deal or Negotiate*; and Docket No. 02-03, *Exclusive Tug Arrangements in Port Canaveral, Florida*. The electronic service of Commission issuances, together with the parties' electronic service of pleadings and motions, eliminated postal delays and facilitated the conduct of these proceedings. The Commission's experience in Docket No. 01-06 was particularly noteworthy, because mail service to and from the Commission's headquarters was brought to a virtual standstill during the postal anthrax crisis in early Fiscal Year 2002. Electronic service in this proceeding avoided the frustrating delays that otherwise would have occurred. The Offices of the Secretary and Administrative Law Judges also began to use electronic service for issuances in other proceedings – by the end of the fiscal year, issuances in docketed proceedings generally were served via e-mail. By virtue of electronic service, counsel were able to be informed of ALJ and Commission rulings virtually on an instantaneous basis. During Fiscal Year 2002, this process was expanded in that ALJ/Commission issuances were furnished to Commissioners, Administrative Law Judges and Commission staff via e-mail.

## **Performance Goal 2:**

*By 9/30/02, implement an optional process for responding electronically to public requests for documents, e.g., public filings, FOIA requests.*

**Progress:** By the end of Fiscal Year 2002, the Commission fully implemented a process to respond electronically to public requests for documents and information. The Commission's Office of the Secretary routinely uses an e-mail scanner/sender to transmit PDF copies of filings in formal proceedings, as well as ALJ and Commission decisions. The scanner/sender also is used to respond to FOIA requests and public requests for information when the requesting party asks that the information be sent in that form. Virtually all of our responses now are handled through e-mail; this process is particularly useful where we receive multiple requests for Commission documents.

## **Performance Goal 3**

*By 6/30/02, make public filings in at least one significant Commission proceeding available on the home page.*

**Progress:** The public filings received in the Commission's Notice of Inquiry proceeding in Docket No. 01-08, *The Impact of the Government Paperwork Elimination Act and the Electronic Signatures in Global and National Commerce Act*, have been made available on the Commission's home page. Our efforts in this regard, together with our efforts under Performance Goal 2, have facilitated the public's access to documents filed with the Commission. Moreover, this effort is being used to develop an approach for placing major filings on the home page on a regular basis.

## **Budget Program Activity: Operational and Administrative**

### **Related Strategic Goals**

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
4. *Internal Capabilities:* Ensure the FMC has the organizational ability and the managerial leadership necessary to meet its industry assistance, enforcement and educational responsibilities.

#### **Performance Goal 1:**

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

**Progress:** While the Commission has made progress towards providing an electronic filing process for major business transactions, budgetary considerations precluded us from finalizing and issuing a Statement of Work to solicit assistance in developing an electronic forms submission system. The Commission contracted with a private sector resource to conduct an assessment of the Commission's IT architecture and electronic records capability, to document findings, and to make recommendations on the risks, technical alternatives, costs and benefits of providing the public with the option of filing information collections electronically. The contractor's report included a recommendation that the Commission procure one of several software packages to enable the agency to accomplish its GPEA responsibilities with in-house resources. Unfortunately, with a fiscal year appropriation level below the President's request, the Commission was left with insufficient discretionary resources in FY 2002 to address this goal fully and effectively. Notwithstanding, the Commission thus far has introduced two systems that collect information via the Internet, and is in the process of developing a third with a projected completion date in FY 2003. While the funding picture for FY 2003 is unclear, the Commission is in the process of re-examining its options under continuing budgetary constraints. We hope to be in a position later in FY 2003 to establish a viable course of action to address our GPEA requirements.

## **Performance Goal 2:**

*During the first quarter of FY 2002, initiate a comprehensive recruiting effort that, by FY end, better matches agency human resources to its changing work requirements, improves on existing levels of employees with targeted disabilities, and enhances the diversity of the FMC's workforce.*

**Progress:** The Commission was successful in addressing this important performance goal. Senior managers were consulted to identify desirable knowledge, skills, and abilities, along with an ideal number of employees required for the agency to address its changing responsibilities. A recruitment plan was developed late in Fiscal Year 2001, and upon approval by the Chairman, it was initiated immediately. From September 2001 through September 2002, the Commission was successful in hiring 19 additional employees. Not only was this significant given the numerous vacancies the Commission had experienced, we had excellent success in hiring employees to better address our changing work requirements. We brought on board six transportation specialists we had identified as being adept at research, analysis, and oral/written communication – this was the most important skill mix we had hoped to obtain in this recruiting effort. We also attracted three Presidential Management Interns who possess a broad range of skills to assist in various Commission program areas. Two attorneys were hired to augment our compliance/enforcement program, and a much needed Area Representative was added in one of our regional areas. We also achieved an important objective of attracting an additional administrative law judge.

Our efforts also went a long way toward fulfilling our objective of enhancing the diversity of the FMC's workforce. We hired six African-Americans and one Hispanic. Also, we attracted six professional women. These individuals, as well as the rest of the employees hired as a result of this effort, have produced immediate benefits for the agency in terms of enhanced competency and productivity. It also should be noted that this recruitment initiative became all the more important since during the period involved, 12 employees left the agency. Overall, we are quite satisfied that we have accomplished the primary objectives of this performance goal.

## **Performance Goal 3:**

*By 9/30/02, standardize and modernize the agency's financial systems environment so that it complies with current guidance on Federal financial management and reporting systems (such as those in the Federal Management Financial Integrity Act, the Federal Financial Management Improvement Act of 1996, OMB Circulars A-123, A-127 and A-130, and OMB Bulletin 98-08) and satisfies audit concerns identified by the agency's Inspector General.*

**Progress:** The Commission achieved its goal of standardizing and modernizing the agency's financial systems environment. After assessing the capacity of existing systems, evaluating available commercial off-the-shelf software, and executing a procurement process that included analysis of several Joint Financial Management Improvement Program-approved systems, the agency replaced its long-time personnel/payroll and financial and accounting cross-servicing provider. Agreements were finalized with the National Finance Center ("NFC") for

personnel/payroll services and with the Bureau of Public Debt (“BPD”) for financial and accounting services. The transition to NFC was completed by May 2002, while the transition to BPD was accomplished at fiscal year’s end, allowing the BPD system to become effective as of October 1, 2002. The new integrated systems satisfy current guidance on Federal financial management and reporting systems and will facilitate the preparation of financial statements and other financial reports in accordance with Federal accounting and reporting standards beginning in FY 2003. The Commission has benefitted considerably from conversion to this modern, web-based, standardized systems environment. It allows for greater consistency of internal controls, access by senior management to more timely and comprehensive information for decision-making, and improvement of budgeting, analysis and government-wide reporting processes.

## **Budget Program Activity: Consumer Complaints and Licensing**

### **Related Strategic Goals**

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
3. *Compliance:* Promote the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.
4. *Internal Capabilities:* Ensure the FMC has the organizational ability and the managerial leadership necessary to meet its industry assistance, enforcement and educational responsibilities.

#### **Performance Goal 1:**

*Develop an integrated OTI database by 9/30/02 which contains relevant data such as current address, bond levels, QI, etc. This information should be readily accessed and easily manipulated to facilitate compliance and enforcement activities.*

**Progress:** The Commission successfully merged its ocean freight forwarder and Regulated Persons Index databases during the fiscal year. An audit of approximately 5,000 OTI files was initiated in June 2002, verifying licensee name, address, qualifying individual, tax identification number, license number and bond information. Changes were input into the newly integrated database, and staff pursued necessary bond riders, amendments to the Form FMC-1 filing, and reissuance of licenses. In addition, new search screens were developed with a wide range of search options. Enhanced programming permitted easier retrieval of the information contained in the database.

During the fiscal year, a prototype of the database with search screens was tested and revised by FMC staff over several months. User comments were solicited and indicated a desire for broader search functionality and easier-to-read format screens to improve the system. As a result, further refinements were produced. Accordingly, standard queries were created. The database, together with necessary help screens, look-up tables, and a data dictionary were uploaded onto the Intranet in February 2003. Access to all substantive information has facilitated compliance and enforcement activities, increased staff responsiveness to public inquiries, and permitted a greater number of staff to respond to inquiries.

## **Performance Goal 2:**

*By 6/30/02, revise FMC application form(s) for OTI applicants to simplify form(s), clarify information required so that staff can more expeditiously process an application (i.e., within 30 days of receipt) and reduce the number of the most common delays in processing an OTI application.*

**Progress:** The Bureau achieved its goal of revising Form FMC-18, Application for a License as an Ocean Transportation Intermediary, to make it more user friendly. Changes included revisions to instructions (i.e., identified what parts of the form needed to be completed based on what was being requested), clarification of required supporting documents to be submitted with the application (i.e., Articles of Incorporation to validate principal name), and the addition of questions regarding the identity of the applicant and officers (i.e., Social Security numbers). We also solicited comments within the Commission, and incorporated those comments where appropriate. We will submit our revised form to OMB for approval to collect this information and publish the revised Form FMC-18 in the *Federal Register* as well as on the FMC home page. We also plan to develop an electronic format of the OTI application in accordance with The Government Paperwork Elimination Act.

## **Performance Goal 3:**

*Enhance Passenger Vessel Database by 9/30/02 so that it will contain needed pertinent information about operators in the program and to maximize identifying those operators with Unearned Passenger Revenue in excess of current maximum coverage (\$15 million) and potential weakness in financial indicators, e.g., debt/capital ratio is relatively high or bond rating reduced.*

**Progress:** The Commission enhanced its Passenger Vessel Operator (“PVO”) database this fiscal year as envisioned by this performance goal. Data elements captured included operator names, vessel names, monthly/weekly unearned passenger revenue amounts, address and contact person for financial security provider/underwriters and cruise operators, amounts of performance and casualty coverages, and certificate numbers. Routine and ad hoc reports were developed and used by FMC staff to monitor the PVO program. These reports were useful for staff in preparing memoranda to the Commission regarding bankruptcies of several cruise operators, and in various rulemakings undertaken to amend Commission rules regarding sections 2 (Casualty) and 3 (Performance) of Public Law 89-777.

## Budget Program Activity: Trade Analysis

### Related Strategic Goals

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
2. *Balanced Enforcement:* Foster economic efficiencies and reliance on marketplace factors by administering U.S. shipping statutes in a balanced and equitable manner that redresses excessive anticompetitive actions and restrictive practices of foreign governments.

#### Performance Goal 1:

*In reviewing agreement filings for anticompetitive consequences, also ensure that only eligible ocean common carriers receive antitrust immunity for their concerted activities under filed agreements as Congress intended pursuant to the 1984 Act, as part of a program that provides that all agreement filings comply with the shipping statute and agency regulations.*

**Progress:** The objectives under this performance goal were accomplished in FY 2002. The ocean common carrier status of every questionable carrier party to a filed agreement was investigated thoroughly to verify that the carrier operates a vessel in the foreign commerce of the United States. This effort involved coordination between internal agency components or other government agencies, for example, the U.S. Customs Service, and researching agency databases, various Internet sites, and press articles for any identifiable information that would assist in determining a carrier's vessel-operating status.

As a result of our thorough review, the effective date of one agreement was delayed through a formal request for additional information where a carrier's status was at issue. In another case, a formal proceeding was instituted to investigate, among other things, the status of an agreement party. In connection with another agreement where there were concerns about the sufficiency of a vessel time charter as a basis for ocean common carrier status, the Commission directed the staff to draft a proposed rule to address the question presented by vessel time charters and their adequacy in determining a carrier's ocean common carrier status.

Other aspects of the goal involved the appropriate processing of agreements in accordance with statutory requirements. Every agreement filed was reviewed and, where appropriate, an analysis of its competitive impact completed within 45 days of filing. There were six instances where serious questions on the likely competitive impact of an agreement prompted the Commission to delay the effective date by formally requesting additional information from the agreement parties to aid in the Commission's analysis. Where the parties demonstrated an operational urgency,

expedited review was granted to allow agreements to become effective sooner than 45 days. Where the parties did not show a good cause, their requests were denied.

**Performance Goal 2:**

*Develop integrated tariff and service contract database for online accessibility by Commission headquarters staff and local area representatives by June 2002 as part of the Bureau's overall Service Contracts and Tariffs program.*

**Progress:** This goal was substantially completed in FY 2002. The Bureau created and refined a number of integrated tariff and service contract database systems which are accessible to FMC staff, including local area representatives. For example, the Tariff Profile System ("TPS") includes several database sections and linkages between systems. The TPS computer program was refined to add a section to include the Carrier Automated Tariff Systems' ("CATS") to capture CATS audit information regarding industry adherence to Commission regulations. The TPS is accessible to relevant headquarters' Bureaus and Offices. Access to the TPS by the local area representatives, however, was lost when they received new computer hardware. In an effort to remedy this problem and to make the TPS more readily accessible, currently there is a project to make the TPS program available via the FMC Intranet to headquarters' staff and area representatives.

Also, the redeveloped electronic Form FMC-1 system implemented near the end of FY 2001 was made available to all FMC headquarters' staff and area representatives via the FMC Intranet. Accessibility via the Intranet is convenient and allows effective searches of the complete database for current information.

And, enhancements to the Internet-based service contract filing system (SERVCON) were implemented and a new search engine was added to make searches for data more efficient. The enhancements allow the staff to monitor certain types of errors related to contract filings and obtain statistics. This system is accessible to FMC staff with logins and passwords.

**Performance Goal 3:**

*Establish a new and streamlined Bureau monitoring program by developing a rule that focuses data collection on critical carrier agreements and major U.S. trades, while not compromising essential information.*

**Progress:** The Commission continued to conduct the research and analysis necessary to modify the current agreement data reporting requirements as envisioned by this performance goal. The rulemaking process had been altered in the interest of combining the subject proposed rulemaking with two other agreement-related proposed rulemakings: modifications to the regulation governing the minutes reporting on meetings conducted under agreements, and the content of agreements filed with the Commission, Docket No. 99-13, *The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984*. The subject proposed rule addresses regulatory modifications to the reporting requirements for data and information on agreements at the initial filing stage with the Commission and after the agreements have become effective under the 1984 Act. It will update, refine, and simplify the regulations to require data essential to the Commission's agreement review process and monitoring program, in order to permit the appropriate assessment of the competitive impact of agreements in accordance with the standards of the 1984 Act. It further will account for the effects that OSRA has had on agreements and the ocean liner shipping industry, and will address concerns of agreement carriers on the burden of reporting information. While this rulemaking was delayed in fiscal year 2002, staff analysis has been completed and the matter is under Commission review; a Notice of Proposed Rulemaking should be issued in the third quarter of FY 2003.

## **Budget Program Activity: Enforcement**

### **Related Strategic Goals**

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, to enable all segments of the industry to plan and conduct their operations more effectively and with minimal regulatory costs.
2. *Balanced Enforcement:* Foster economic efficiencies and reliance on marketplace factors by administering U.S. shipping statutes in a balanced and equitable manner that redresses excessive anticompetitive actions and restrictive practices of foreign governments.
3. *Compliance:* Promote the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.

#### **Performance Goal 1:**

*Develop and implement a program by 3/30/02 to identify and bring into compliance entities not in compliance with the Commission's definition of vessel-operating common carrier.*

**Progress:** The program developed consists of a vessel-operating compliance audit letter and questionnaire, a review of Commission databases, including the Regulated Persons Index, the FMC-1 and the Commission website posting of entities holding themselves out to be vessel-operating common carriers, and the initiation of cases challenging claimed vessel-operating status. The audit letter was fashioned in the same manner as a previously developed freight forwarder audit program. The questionnaire is to be utilized on an as-needed basis. When information is received which gives reason to question claimed vessel-operating status, the questionnaire may be dispatched to gather preliminary information which can verify the claimed status or serve as the basis for initiating further investigative or enforcement action. Using available maritime publications and Commission databases, an initial survey of new entrants registering as VOCCs was conducted during FY 2002. The further modification and refinement of the Commission's operating status databases, and the initiation of cases to challenge carrier status, were conducted in FY 2002. Further, as aforementioned, the status of carriers seeking to file agreements was challenged in several instances. Indeed, a proposal for possible rulemaking to assist in defining vessel-operating common carrier status was in progress, but was held in abeyance pending Commission action in a formal investigative proceeding challenging carrier status (Docket No. 02-09, *Shanghai Hai Hua Shipping Co. Ltd.*).

## **Performance Goal 2:**

*Initiate enforcement action, as necessary, to improve compliance with statutory requirements related to substantive provisions of contracts and proper contracting parties.*

**Progress:** With the implementation of OSRA and the provisions for confidential service contracts, the efforts by all entities, carriers and shippers alike, is to conduct business under service contracts. This has resulted in increased cases of improper use of service contracts and the unlawful provision of liner services by carriers. In FY 2002, cases involving improper service contract usage represented approximately 60 percent of all cases initiated. Of cases resulting in penalty collections in FY 2002, 50 percent involved improper service contract issues. Cases have been initiated and enforcement action taken with respect both to carriers and shippers, and at least four formal investigations were prosecuted with respect to these issues. Most of the Commission's activities in this area are complaint-driven. As these actions are concluded and become public, they should have a deterrent effect on the shipping industry, resulting in greater protection to the shipping public against unlicensed and unbonded entities.

## **Performance Goal 3:**

*Explore the use of alternative systems for payment of fines and penalties (to include identifiable electronic transfers). Review completed by 6/30/02.*

**Progress:** Alternative payment processing systems were considered as a means to provide a more effective and efficient means of receiving payments of fines and penalties from the public. Due to the sporadic nature of penalty payments, wire transfer is the only practical payment alternative that can be offered to the public at this time. Penalty payments typically are non-recurring; they originate from different payees and financial institutions, so other electronic payment systems do not bring about added convenience or efficiency. No rule changes were necessary to provide for this alternative payment system, however, the procedures for wire transfers were documented in the form of a "Standard Operating Procedure" which has been distributed to BOE for its use in facilitating penalty payments.

## **FY 2001 PERFORMANCE GOALS NOT ACHIEVED**

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

### **Performance Goal 2 (Operational and Administrative Program Activity):**

*Develop by 3/31/01 a competitive SES Candidate Development Program to be used for selecting qualified employees to fill future leadership positions in the agency's SES corp.*

The objective of this goal was to initiate an SES Candidate Development Program in the 2<sup>nd</sup> quarter of FY 2001, and select candidates by the end of FY 2001. As referenced in our FY 2001 Report, actual initiation of the program was deferred in light of hiring controls that were imposed by the Administration. Upon relaxation of these controls, the Commission's program ultimately was announced in the second quarter of FY 2002. All applications were reviewed by the agency's Executive Resources Board (ERB), and those applicants considered most highly qualified were interviewed. The ERB then made its recommendations to the Chairman, who made the final selection of candidates in August 2002. Necessary funding for appropriately training selected candidates has been allocated, and developmental assignments have been identified for each. The Commission plans to have its candidates fully prepared for approval by an OPM Qualifications Review Board early in calendar year 2004.

### **Performance Goal 1 (Consumer Complaints and Licensing Program Activity):**

*By 6/30/01, ensure accurate/useful listing of licensed/bonded OTIs on homepage.*

In its FY 2001 Report, the Commission indicated that it had to delay accomplishment of this goal. A necessary audit of all OTI files became quite time consuming and resulted in more than anticipated discrepancies. The time required to resolve these discrepancies and input changes, in addition to the normal workload of licensing and bonding OTIs, delayed production of the list. Additionally, an unforeseen number of bankruptcies of passenger vessel operators, and a rulemaking to address this issue, required involved resources to be diverted from the OTI audit. However, the Commission ultimately updated its OTI data and reconciled several agency databases to produce the expected OTI list. This list, and search-screen capability, were placed on the agency Intranet for staff comment. After two weeks of staff testing, comments were incorporated as they were received. The final list now is scheduled to be placed on the FMC's home page and made available to the public in March 2003. The list will be updated weekly.

**Performance Goal 3 (Trade Analysis Program Activity):**

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

This performance goal is related to Performance Goal 3 under this activity in our FY 2002 Annual Performance Plan. As reflected earlier regarding that performance goal, the Commission continued to experience delay in addressing this relatively involved issue. As previously stated, the staff analysis has been completed and the Commission should consider this matter in the near future, with a Notice of Proposed Rulemaking planned for issuance in the third quarter of FY 2003. Contingent upon the extent and breadth of comments received, a final rule should be completed prior to the end of calendar year 2003.