

**Data Accuracy of FMC's
FY 2006 Performance and
Accountability Report (PAR)
OR07-02**



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FEDERAL MARITIME COMMISSION

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TO: Peter J. King, Director
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FROM: Adam R. Trzeciak
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SUBJECT: Data Accuracy of FMC's FY 2006 Performance and Accountability Report
(OR-07-02)

The Office of Inspector General (OIG) has completed a limited review of data accuracy in the FY 2006 Performance and Accountability Report (PAR). The objectives of this review were to determine, on a sample basis, whether (i) information externally reported in the FY 2006 PAR is accurate, and (ii) processes used to compile the data are reliable. To meet our objectives, we interviewed and/or obtained relevant information from the Office of the Secretary (OS), Office of Consumer Affairs and Dispute Resolution Services (CADRS); Office of Administration (OA); Office of the General Counsel (OGC); Office of Administrative Law Judges (ALJ); and the Bureaus of Enforcement (BOE), Trade Analysis (BTA) and Certification and Licensing (BCL).

Background

The PAR provides program and financial information that enables the President, Congress and the public to assess Agency performance relative to its mission and resources. The report is divided into three sections (chapters) and six appendices. Chapter One, *Management's Discussion and Analysis*, provides an overview of the agency, its missions and responsibilities, as well as its financial performance. Chapter Two, *Program Performance*, presents information on the performance of the FMC, the FMC's performance measurement system, resource requirements to meet strategic goals and a summary of performance relative to specific program goals. Chapter Three, *Auditor's Report and Financial Statements*, contains the auditor's opinion of the agency's financial statements and the statements themselves.

The agency begins to compile data for the PAR report in July, nine months into the fiscal year. At the same time, the agency also requests that program offices provide budget narratives and resource requests for future budgets. Both the PAR and budget narratives present identical performance information for the current year. Rather than making requests to program offices at different times for the same information, OA consolidated the requests into one, with a reporting deadline in July of each year. While reducing overlap, this common deadline has required program staff to estimate performance for the last three months of the fiscal year, based on past experience and current maritime industry trends.

The PAR is due to the Office of Management and Budget (OMB) on November 15 of each year, giving the agency 45 days after the close of the fiscal year to update its estimates from the preceding July and to prepare the document. If these estimates are not updated, the agency may, depending on the accuracy of its forecasting methodology and the impact of industry forces outside its control, publicly report inaccurate performance data.

Data Accuracy

Based on discussions with senior agency staff and OA managers, the OIG learned that the agency did not update PAR performance data estimates before publicly releasing the information. Nor did it indicate in the PAR that the performance data was based on a combination of actual and estimated information. As a result, a significant amount of performance data appearing in the PAR is inaccurate.

The OIG sought to compare estimated data reported in the PAR with actual FY 2006 performance information to assess the extent to which randomly selected estimates deviated from actual performance data and to illustrate the variation between estimates and actuals. As our benchmark, we used actual FY 2006 performance information contained in the FY 2008 Congressional Budget submission.

The FMC's performance management system includes both strategic goals and performance goals and measures. The strategic goals taken together represent the FMC's mission. The performance goals focus on outcomes which contribute to the agency achieving its strategic goals. The performance measures associated with each performance goal provide benchmarks for measuring how effectively the FMC is achieving its goals. Performance data provided by program offices provides a barometer to assess how well the agency is meeting its goals.

To test the accuracy of information reported in the FY 2006 PAR, the OIG selected 48 workload units from seven FMC program areas for review.¹ We then compared these workload units to the corresponding data elements in the FY 2008 budget submission. We identified 36 discrepancies (75 percent) when comparing identical workload units in the two documents.

¹ Workload units are output statistics used by the FMC to quantify and assess performance. For example, workload statistics include number of (i) licenses processed, (ii) service contracts received, and (iii) enforcement actions brought against alleged violators. The OIG selected all workload units in the FY 2006 PAR for review.

Although we identified differences in both directions (i.e., overstating and understating program outcomes), in all cases the differences occurred because the agency combined three-month estimates with data from nine-months of actual performance.

Table 1, below, summarizes the outcome of our comparison of workload units in the FY 2006 PAR and the FY 2008 Congressional Budget Request.

**Table 1. Summary Statistics
2006 PAR-Reported Workload Units vs. 2006 Actuals**

Reporting Unit	Number of PAR Workload Units Sampled	Discrepancies Between Estimates & Actuals
Secretary	5	5
Consumer Affairs & Dispute Resolution Services	3	3
Administrative Law Judges	3	0
General Counsel	5	0
Enforcement	12	9
Trade Analysis	10	10
Certification and Licensing	10	9
TOTAL	48	36

A detailed comparison between the individual data elements presented in the PAR and actual outputs presented in the FY 2008 Congressional Budget submission is made in Appendix A to this report.

Although the table above indicates that discrepancies were seen in 75 percent of the measures we reviewed, a closer examination of Appendix A shows wide variation in the magnitude of these differences. Some of the estimates missed actual totals by only a few percentage points, while other estimates were significantly off their mark. For example, the Bureau of Enforcement estimated in July that it would have 32 enforcement cases pending at year end. In the FY 2008 Budget Submission, the Bureau reported that it had 34 cases pending, or a 6 percent difference. Similarly, the Bureau of Trade Analysis's Office of Agreements estimated that it would receive 265 Carrier Agreement Filings, but reported 256 in the FY 2008 Budget Submission – a 3 percent decline.

On the other hand, other estimates differed from actual totals by larger margins. For example, CADRS overestimated informal complaints by 23 percent; the Bureau of Trade Analysis's Office of Economic and Competition Analysis "Quarterly Monitoring Reports" were overestimated by 29 percent; BCL overestimated the number of amended licenses it processed by 44 percent; and the actual number of Freedom of Information (FOIA) requests was 115% higher than OS originally estimated.

Many of the estimates made by the agency, including the four “workload unit” estimates presented in the preceding paragraph, are driven by factors that are outside the control of the agency. The examples are not meant to be critical of the agency’s estimation techniques or performance. Rather they are there to illustrate how important it is that the public be informed these are estimates (i.e., nine months of actuals combined with three months of projections), otherwise it would be misled.

Testing Workload Units

In addition to identifying differences between the estimates and actuals in the PAR caused by reliance on estimated figures, the OIG also checked, on a limited basis, the source documentation behind the estimated and final numbers. In other words, we reviewed how reliable select systems are when producing workload data for reporting purposes.

We reviewed the source documentation behind the workload units for three bureaus/offices: the Office of the Secretary, the Office of Administrative Law Judges and the Bureau of Trade Analysis – Office of Service Contracts. Within the OS, we reviewed the count of Federal Register Notices; in the Office of the ALJ’s, we reviewed (i) formal proceedings settled and dismissed and (ii) decisions issued but not settled by the ALJ; within BTA, we reviewed tallies of new service and amendment contracts. We found that two of the three processes reviewed produced inaccurate workload units.

Office of the Secretary

The Federal Register (FR or Notice) is a daily publication containing rules, proposed rules, Federal agency and organization notices, and executive orders. In the FR, the FMC reports on mission-related activities, to include filed agreements, applications submitted for casualty and performance certificates and ocean transportation intermediary licenses, among other things.

The OIG visited the Government Printing Office’s (GPO) website to verify OS’s compilation of Federal Register Notices. The GPO’s website is not organized to abstract the information by agency. Therefore, we reviewed all daily Notices published in FY 2006 to identify FMC Notices. We then compiled and scheduled each pertinent Notice.

Our analysis of Federal Register Notices issued in FY 2006 identified 357 Notices pertaining to FMC activities. By way of comparison, OS reported 260 Notices in the PAR (roughly nine months of FY 2006 data) and 323 Notices in the FY 2008 Congressional Budget submission. While the tally in the PAR is the result of relying on nine months of actual data, it appears that the Notices were simply miscounted in the Congressional Budget request. As a result, agency-related Notices were understated in both documents.

Office of Administrative Law Judges

We reviewed the source documents provided by the ALJ behind workload units consisting of (i) formal proceedings settled and dismissed, and (ii) decisions issued but not settled by the ALJ. The units were consistently reported in both the FY 2006 PAR and the FY 2008 Congressional budget request, and tied to the source documents that we reviewed.

Bureau of Trade Analysis – Office of Service Contracts

The OIG determined that source documents from the Office of Service Contracts reconciled to final numbers posted in the FY 2008 Congressional Budget request. However, the data did not agree with what was reported in the PAR. The information for these workload units are abstracted monthly from SERVCON.² However, the projections for new service agreements understated the actual number of new service agreements and overstated the number of amended agreements processed.

Recommendations

1. The OIG recommends that the Office of Administration ensure that estimates are updated prior to their public release in the PAR or that the reader be advised that the performance measures are based on nine months of actual data and three months of estimated industry trends.
2. The OIG recommends that Office of Administration remind offices whose workload unit statistics are dependent on manual counts to institute controls to guard against miscounts. One such control is to have two individuals perform the count and to reconcile any differences between the two numbers if they exist.

² SERVCON is an automated system containing service contracts filed with the FMC by select members of the maritime industry. Ocean common carriers, either individually or through agreements with other carriers, can negotiate and execute service contracts with one or more shippers or shipper associations. Shippers make a commitment to provide a certain volume or portion of cargo over a fixed period of time and carriers commit to a specified rate and a defined service level. The FMC is charged with reviewing these contracts for anticompetitive effects. The OIG reviewed the number of service contracts filed with the agency.

Comparison between PAR Estimates and Actual (FY 2006)

No.	Office/Workload Units	Estimated Workload Units Reported in the FY2006 PAR	Actual 2006 Workload Units	+/- Percentage
	Secretary			
1	Orders/Notices Issued	11	15	36%
2	Agenda Items	58	73	26%
3	Minutes (pages)	90	85	-5%
4	Federal Register Notices	260	323	24%
5	FOIA Request	13	28	115%
	CADRS			
6	Inquiries (phone, e-mail, fax)	3,500	3,000	-14%
7	Non Docketed Informal Complaints	650	500	-23%
8	Docketed Informal Complaints	6	5	-16%
	General Counsel			
9	Speeches/Articles Produced	15	15	0%
10	Interagency & Int'l Group Sessions	30	30	0%
11	Request for Information	275	275	0%
	<i>International Affairs</i>			
12	Reports - Produced	35	35	0%
	<i>Legislative Activity</i>			
13	Bills, Proposals - Referred	120	120	0%
	Office of Administrative Law Judges			
14	Formal Proceedings (settled)	2	2	0%
15	Formal Proceedings (dismissed)	5	5	0%
16	Initial Decisions Not Settled by ALJ	7	7	0%
	Bureau of Enforcement			
17	Enforcement Cases - Beginning of FY	27	27	0%
18	Enforcement Cases - Received Actions	20	21	5%
19	Enforcement Cases - Compromised & Settled	15	14	-6%
20	Enforcement Cases - End of FY	32	34	6%
21	Formal Proceedings - Beginning of FY	7	4	-43%
22	Formal Proceedings - New	4	4	0%
23	Formal Proceedings - Completed	4	3	-25%
24	Formal Proceedings - End of FY	4	5	25%
25	Matters Monitoring - Beginning of FY	71	71	0%
26	Matters Monitoring - Received	51	53	4%
27	Matters Monitoring - Completed	49	57	16%
28	Matters Monitoring - End of FY	73	67	-8%

No.	Office/Workload Units	Workload Units Reported in 2006 PAR	Actual 2006 Workload Units Reported in '08 Congressional	+/- Percentage
	Bureau of Trade Analysis			
	<i>Office of Agreements</i>			
29	Carrier Agreements Filings Received	265	256	-3%
30	Terminal Agreement Filings Received	18	28	55%
	<i>Office of Economic & Comp Analysis</i>			
31	Set of Minutes Received	873	886	1%
32	Quarterly Monitoring Reports Expected	231	164	-29%
	<i>Office of Service Contracts & Tariffs</i>			
33	New Service Contracts Received	50,000	46,682	-6%
34	Contract Amendments	242,000	252,566	4%
35	NSA Filed	414	557	35%
36	NSA Amendments Filed	342	448	31%
37	Active/Current Tariff - Posted	3,996	3,942	-1%
38	Inactive/Cancel Tariff - Posted	1,856	1,902	2%
	Bureau of Certification & Licensing			
	<i>Transportation Intermediaries</i>			
39	Applications - New	500	420	-16%
40	Applications - Amended	300	227	-24%
41	Licenses Issued - New	475	343	-28%
42	Licenses Issued - Amended	300	169	-44%
43	Licenses - Revoked	250	278	11%
44	Licenses - Cancelled	55	63	15%
	<i>Passenger Vessels & Information Processing</i>			
45	Applications for Performance Certificates - Received	30	29	-3%
46	Applications for Performance Certificates - Processed	30	29	-3%
47	Applications for Casualty Certificates - Received	30	30	0
48	Applications for Casualty Certificates - Processed	34	24	-29%

Memorandum

TO : Inspector General

DATE: June 28, 2007

FROM : Director of Administration

SUBJECT : Comments on Draft Report OR-07-02 - Data Accuracy of
FMC's FY 2006 Performance and Accountability Report

Comments on the Draft Report

The Draft Report may leave the reader with the impression that the FMC does not produce accurate information regarding workload statistics. This is not the case.

The Office of Administration ("OA") asks all agency programs to provide their PAR and OMB budget submissions concurrently, in order to save effort and time on the part of the agency's small staff. Inasmuch as the OMB budget submission must be submitted prior to the end of a fiscal year, OA collects and incorporates estimates of workload statistics to meet applicable OMB budget requirements and submission deadlines. The PAR statistics necessarily are estimates also, as is accurately pointed out in the Draft Report.

There are many activities clustered at the end of each fiscal year, including evaluating the agency's progress in meeting performance goals. This process is exceedingly important, as our budget and goals are linked in both our OMB and President's budget submissions. While the November 15 PAR due date might appear to allow adequate time after the end of a fiscal year in which to develop final workload statistics, one must take into account the process leading up to the submission of the PAR. OMB in fact requires a draft PAR to be submitted no later than November 1. Within that thirty-day time frame ending November 1, the FMC must undertake and complete an internal review process of collecting, aggregating, editing and obtaining senior management approval of the draft PAR so that any changes can be timely made prior to submission of the PAR to OMB; additionally, certain substantive portions of the PAR must be provided annually to the agency's financial auditor even earlier, usually by mid-October. (This year's due date is October 15.) In fact and in practice, any internal due date for compilation of final workload statistics would have to fall very close to the actual end of the fiscal year in order to allow time for creation of the final PAR and the PAR review process, injecting yet another demand on the program offices at a time when significant demands have already been placed on them.

Moreover, the importance and value of now imposing such requirements should not be viewed as critical to any external reviews, as the FMC already has a process in place for reporting its updated "actual" workload statistics. The FMC currently produces two documents subsequent to the issuance of the OMB budget submission and the PAR that contain final, actual workload statistics: the Annual Report and the President's Budget. These documents are created early in the new fiscal year, allowing agency staff additional time to adequately prepare and double-check the required statistical data shortly after the conclusion of the fiscal year. OA does not believe that the existing practice of preparing final workload statistics for incorporation into the President's Budget and the Annual Report has, at any time, given rise to confusion regarding the agency's workload statistics. Most significantly, whenever FMC is asked for actual workload statistics by Congressional or OMB staff, formally or informally, the latter documents are the ones from which all inquiries regarding FMC workload are answered. If deemed appropriate to assuage OIG's concern for the *potential* for confusion regarding the agency's practice of preparing workload statistics, OA would have no objection to expressly reflecting this information in the PAR.

The Draft Report contains two recommendations. We are providing corrective action advice concerning them herein:

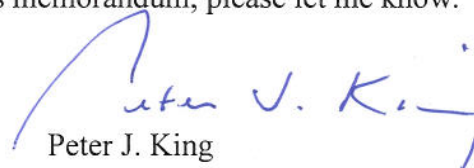
Recommendation #1: The OIG recommends that the Office of Administration ensure that estimates are updated prior to their public release in the PAR or that the reader be advised that the performance measures are based on nine months of actual data and three months of estimated industry trends.

The Director, OA, will ensure that the FY 2007 PAR contains a reference to the fact that the workload statistics are estimates, and that final FY 2007 workload statistics will appear in the agency's Annual Report for FY 2007 and the agency's FY 2009 President's Budget submission. Since the FY 2007 PAR will be made public on November 15, 2007, corrective action will be completed on that date.

Recommendation #2: The OIG recommends that Office of Administration remind offices whose workload unit statistics are dependent on manual counts to institute controls to guard against miscounts. Once such control is to have two individuals perform the count and to reconcile any differences between the two numbers if they exist.

The Director, OA, will ensure that a reminder is incorporated into the Call Letter for the next President's Budget submission to advise those who do manual counts to institute controls against miscounts. The corrective action completion date will be December 31, 2007.

If you have any questions concerning this memorandum, please let me know.


Peter J. King

cc: Director, Operations
Director, BCL
Director, BTA
Director, BOE
Clay Guthridge, Office of ALJs
General Counsel
Secretary
Director, CADRS
Director, OFM