



Strategic Goal 3: *Safe and Secure Workplaces*

Promote workplaces that are safe, healthful and fair; guarantee workers receive the wages due them; foster equal opportunity in employment; and protect veterans' employment and reemployment rights.

All workers are entitled to safe and secure workplaces – and several DOL agencies are dedicated to achieving this goal. These agencies provide a critical service to the American worker by ensuring that employers comply with major employment laws that promote practices that minimize safety and health hazards, protect employees' wages, provide equal employment opportunity to workers, and support veterans returning to the civilian workplace:

- Occupational Safety and Health Administration (OSHA),
- Mine Safety and Health Administration (MSHA),
- Employment Standards Administration (ESA), and
- Veterans' Employment and Training Service (VETS).

DOL employs a broad range of expertise – from front-line investigators to strategic decision makers – to administer these laws and to educate employers and the public. Performance goals and targets for this strategic goal focus on the effectiveness of these enforcement efforts and compliance programs. Here are a few highlights of FY 2008 results:

For Workers

- In workplaces covered by the Occupational Safety and Health Act, the fatality rate and the injury and illness rate both decreased, which means fewer workers suffered from conditions caused or worsened by their work environment.
- In mines, the fatality rate and the all-injury and illness rate both decreased to six-year lows.

For Employees of Federal Contractors

- The discrimination rate among audited contractors rose but remained below two percent.
- Compliance rates among audited contractors dipped by one percentage point to 87 percent compliance rate.

For Returning Veterans

- Claims under the Uniformed Services Employment and Reemployment Rights Act increased by 15 percent and meritless claims increased by 29 percent from last year.
- Employer violations decreased by seven percent.

For more specific information, see the Performance Goal narratives.

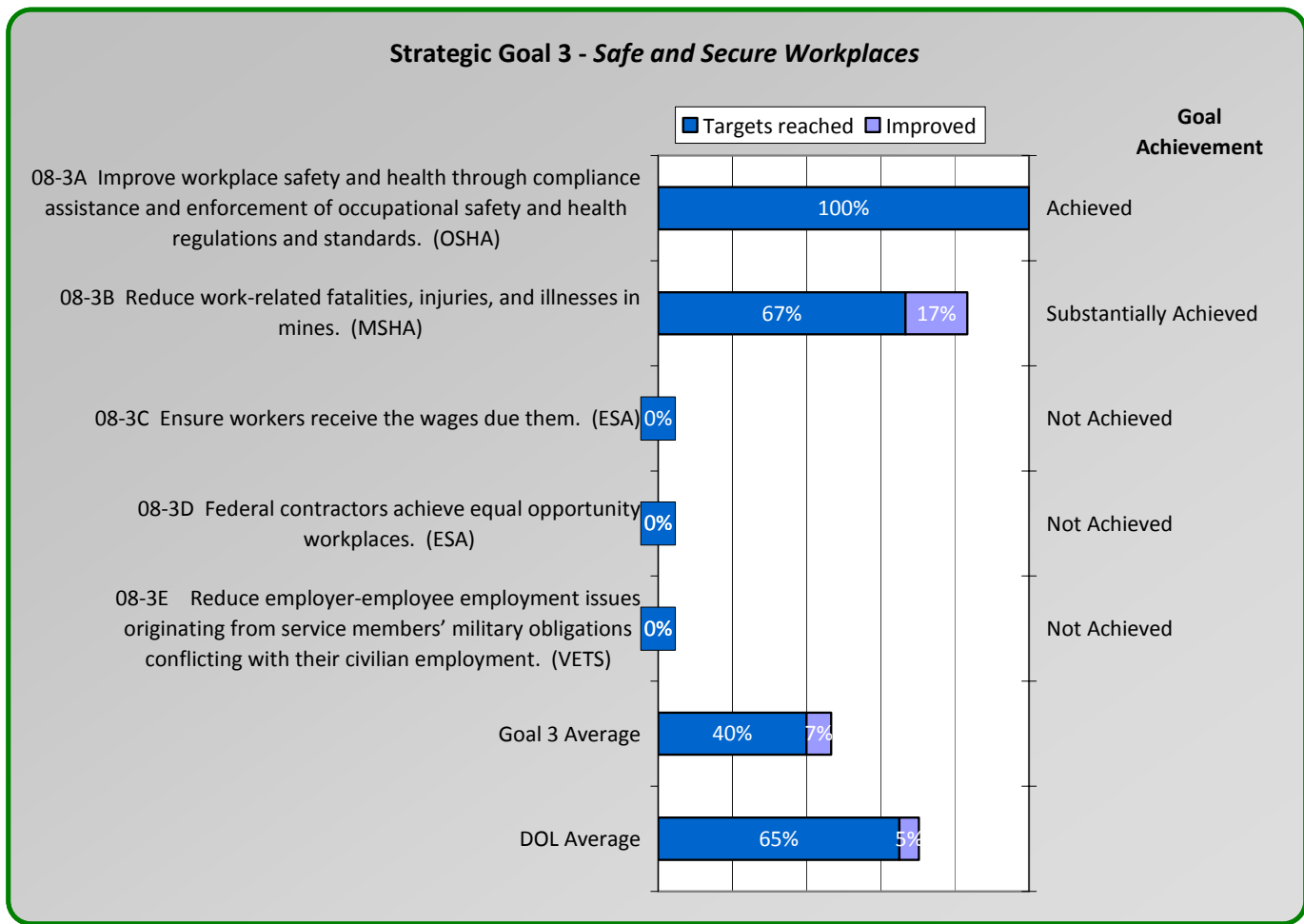
The chart below presents FY 2008 achievements as measured by performance goals and indicators. The performance goal number, goal statement, and responsible agency appear on the left axis, the total percentage of indicator targets reached or improved is indicated



In 2006, ESA's Wage and Hour Division's (WHD) Los Angeles District Office began a concentrated effort to increase compliance in the local car wash industry – a low wage industry that displayed all the characteristics of an underground economy. Workers were paid in cash, some "under the table." WHD embarked on an aggressive strategy employing enforcement techniques and compliance assistance initiatives to promote industry-wide compliance with the minimum wage and overtime provisions of the Fair Labor Standards Act. By 2008, WHD was working with the Western Car Wash Association (WCWA) to expand its outreach to employers. The agency gave compliance presentations to hundreds of car wash operators throughout the Western and Southwestern regions of California. The WCWA, in turn, added a link to the agency's Web site to help its members access compliance information. WHD's enforcement investigations yielded hundreds of thousands of dollars in back wages for low-wage workers. For example, a Northridge car wash was ordered to pay \$160,000 in back wages to 84 workers and a Santa Monica car wash paid \$100,000 in back wages to 55 employees following an investigation. Photo credit: DOL/ESA.



in the horizontal bars, and the goal result is on the right axis. Corresponding strategic goal and DOL-wide averages are presented at the bottom of the chart. If the goal is achieved, the bar will run all the way across because, by definition, all indicator targets were reached. If the goal is substantially achieved, the total can range from 80 percent to 100 percent and includes indicators for which the target was not reached, but results improved over the previous year.



For Strategic Goal 3, DOL achieved just one of five performance goals (20 percent), below the Department-wide average of 50 percent. OSHA achieved its goal by reaching targets for reducing the workplace injury and illness rate and the fatality rate. MSHA did not achieve its performance goal; however, it reached targets for four of six performance indicators, including reducing fatality and injury rates. ESA’s Wage and Hour Division did not reach its four targets (goal not achieved). ESA’s Office of Federal Contract Compliance Programs did not reach either of its two targets, therefore did not achieve its goal. VETS’ goal for protecting employment and re-employment rights of service members was not achieved, either; a spike in claims led to a decline in its comprehensive Progress Index.

The following table provides net costs for all performance goals and indicators associated with this strategic goal.⁴⁵

⁴⁵ Rows labeled “Dollars not associated with indicators” indicate costs that cannot be associated with the current set of performance indicators. For some goals, indicator costs are intentionally combined by merging cells because program activities are not separable into categories associated with one or another of them (e.g., job training program common measures – entered employment, employment retention and average earnings).



Goal or Indicator	Net Costs (\$Millions) ⁴⁶		
	FY 2006 PY 2005	FY 2007 PY 2006	FY 2008 PY 2007
Strategic Goal 3: Safe and Secure Workplaces	\$1,189	\$1,237	\$1,281
Performance Goals 08-3A (OSHA) Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards.	519	547	554
<i>Days away, restricted and transferred (DART) per 100 workers</i>	519	547	554
<i>Workplace fatalities per 100,000 workers for sectors covered by the OSH Act</i>			
Performance Goal 08-3B (MSHA) Reduce work-related fatalities, injuries, and illnesses in mines.	348	356	388
<i>Mine industry fatalities per 200,000 hours worked</i>	–	121	132
<i>Mine industry injuries per 200,000 hours worked</i>	–	107	116
<i>Percent of respirable coal dust samples exceeding the applicable standards for designated occupations</i>	–	50	58
<i>Percent of silica dust samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines</i>	–	35	35
<i>Percent of noise samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines</i>	–	18	16
<i>Percent of noise exposures above the citation level in coal mines</i>	–	25	31
Dollars not associated with indicators	348	–	–
Performance Goal 08-3C (Wage and Hour) Ensure workers receive the wages due them.	214	221	227
<i>Number of workers for whom there is an agreement to pay or an agreement to remedy per 1,000 enforcement hours in complaint cases</i>	112	123	123
<i>Percent of prior violators who achieved and maintained FLSA compliance following a full FLSA investigation</i>	27	30	30
<i>Low wage workers assisted per 1,000 case hours</i>	39	45	38
<i>Number of wage determination data submission forms processed per 1000 hours</i>	23	23	35
Dollars not associated with indicators	12	–	–
Performance Goal 08-3D (Federal Contractor Compliance) Federal contractors achieve equal opportunity workplaces.	97	103	102
<i>Discrimination rate for audited Federal contractors</i>	68	72	71
<i>Compliance rate for all other EEO requirements</i>	29	31	31
Performance Goal 08-3E (USERRA) Reduce employer-employee employment issues originating from service members' military obligations conflicting with their civilian employment.	11	10	10
<i>USERRA Progress Index (measures compliance and assistance performance)</i>	11	10	10

⁴⁶ Net cost as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.



Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards.



Performance Goal 08-3A (OSHA)

Indicators, Targets and Results

*Indicator target reached (Y), improved (I), or not reached (N) **Estimated		FY 2007 Goal Achieved	FY 2008 Goal Achieved
Days away from work, job restriction and job transfer (DART) per 100 workers	Target	2.3	2.3
	Result	2.1	2.0**
	*	Y	Y
Workplace fatalities per 100,000 workers (for sectors covered by the Occupational Safety and Health Act)	Target	1.73	1.58
	Result	1.58	1.57**
	*	Y	Y
Goal Net Cost (millions)		\$547	\$554

Source(s): OSHA Integrated Management Information System (IMIS), Bureau of Labor Statistics (BLS) Current Employment Statistics (CES) and Annual Survey of Occupational Injuries and Illnesses (ASOII).

Legacy Data: Some indicators not shown for FY 2003-06. Complete indicators, targets and results for FY 2003-06 are available in the FY 2006 report at <http://www.dol.gov/sec/media/reports/annual2006/PGD.htm>. See Performance Goals 06-3.1C and 06-3.1D.

Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis. Costs are not allocated to OSHA's two performance indicators because the same activities contribute to reductions in fatality and injury/illness indicators, i.e., their costs are not separable. Calendar year is designated by "CY."

Program Perspective and Logic

For over 35 years, OSHA has promoted employee safety and health in the United States by collaborating with employers and employees to create safe working environments. A strong, fair, and effective enforcement program underpins OSHA's efforts to protect the safety and health of the nation's workers. Outreach, education and compliance assistance complement enforcement and enable OSHA to play a vital role in preventing on-the-job injuries, illnesses and fatalities.

The majority of working Americans fall under the jurisdiction of Federal OSHA plans or Federally-approved job safety and health programs operated by the States (with the exception of miners, transportation workers, domestic workers, some public employees, and the self-employed). OSHA helps to reduce on-the-job injuries, illnesses and deaths by intervening – through compliance assistance and enforcement strategies – at workplaces where occupational safety and health hazards are more likely to be present and by responding to reports about serious workplace hazards.

OSHA tracks the DART and fatality rates to develop targeted national and local programs and to measure performance. The agency's long-term goals are to reduce the injury and illness rate by 15 percent between CY2005-2011 and the workplace fatality rate by 11 percent between FY 2006-2011. OSHA creates fiscal year estimates from the published BLS Survey of Injuries and Illnesses (calendar year) rates of injuries and illnesses involving days away from work, job restriction, or job transfer (DART). OSHA's own Integrated Management Information System is used to track fatalities and other data for management purposes. Other factors that affect achievement of this performance goal include national economic indicators such as employment, changes in technologies, and workforce characteristics.

Analysis and Future Plans

OSHA reached both indicator targets and achieved its goal. This year, the rate of injuries and illnesses involving days away from work, job restriction, or job transfer declined to an estimated 2.0 cases per 100 workers from last



year’s rate of 2.1 cases, and the fatality rate for sectors covered by the Occupational Safety and Health Act declined to 1.57 fatalities per 100,000 workers from the FY 2007 rate of 1.58.

In March 2008, the agency identified combustible dust as a workplace safety priority. OSHA subsequently sent a letter and Safety and Health Information Bulletin entitled “*Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions,*” to almost 30,000 workplaces within industries that often face the potentially deadly hazard of combustible dust. The letter emphasized the importance of complying with all applicable OSHA standards, in particular those relevant to combustible dust. The letter also encouraged employers to make use of OSHA’s on-site consultation program, which offers free and confidential occupational safety and health advice to small and medium-sized businesses. Such measures support OSHA’s mission to promote employee safety and health and reduce occupational injuries and illnesses.



Since its inception in 2002, OSHA’s Alliance Program has become an integral part of OSHA’s strategies to reduce workplace fatalities, injuries and illnesses. Through the Alliance Program, OSHA works with groups committed to safety and health, including business, trade or professional organizations, unions and educational institutions. These alliances allow the leveraging of resources and expertise to develop compliance assistance tools and share information with employers and employees that help prevent injuries, illnesses and fatalities in the workplace. The Alliance Program has enabled OSHA to work with a number of organizations that were previously reluctant to work cooperatively with the Agency.
 Photo credit: DOL/OSHA

Contributing to the reduced rate of injuries and illnesses in 2008 were seven National Emphasis Programs (NEPs) and over 100 Local Emphasis Program (LEPs) in areas such as residential construction, logging, and crystalline silica. The agency’s Site Specific Targeting Program, which identifies worksites that experience high rates of injury and illness, also contributed to the rate reduction.

In the future, OSHA will use data analysis from the new OSHA Information System database to better target where injury and illnesses are occurring and to build its operating plan around these areas.

The costs associated with this performance goal increased by two percent between FY 2007 and FY 2008 due to budgetary increases for pay adjustments and personnel benefits and other administrative costs.

PART, Program Evaluations and Audits

PART Year	Rating	PART Findings and Improvement Plan:
2007	Adequate	http://www.whitehouse.gov/omb/expectmore/summary/10000336.2007.html
FY 2008 Progress on PART Improvement Plan		
<ul style="list-style-type: none"> • <i>Completing regulatory reforms identified in the 2005 Report to Congress on the Costs and Benefits of Federal Regulation.</i> OSHA is on track to publish notices of proposed rulemaking for Hazard Communication Training, Hazard Communication/Material Safety Data Sheets, Walking and Working Surfaces (which includes the Guardrails Around Stacks of Steel requirement), and Annual Training Requirements for Separate Standards. • <i>Developing the OSHA Information System to improve data collection.</i> In FY 2008, the OSHA Information System Team worked with 175 potential users of the system to test 20 percent of the system’s capabilities. The System, which will 		



enhance data collection, data access, and information dissemination for the entire Agency, is scheduled for full deployment by September 30, 2010.

- *Conducting rigorous independent evaluations to examine the relative effectiveness and efficiency of programmatic approaches.* In response to recommendations resulting from rigorous independent evaluations, in FY 2008, the agency developed the second version of a user manual for the OSHA Strategic Management Tool. The tool will help OSHA use historic and current workplace demographics and occupational injury and illness experience to predict industry-level outcomes and to improve strategic management planning. Additionally, OSHA is considering developing an evaluation framework so that program evaluation findings can be used as data inputs to the tool.

**“EPA and OSHA Could Improve Their Processes for Preparing Communication Products,”
March 2008 (Government Accountability Office)**

Relevance: GAO examined how OSHA and the Environmental Protection Agency (EPA) develop new communications products, including the general processes used to prepare products and how these processes compare to those for rulemaking and how recent administration initiatives may affect them.

Findings and Recommendations:

- GAO recommended that OSHA and EPA ensure their key general processes for preparing communication products are documented, made publicly available, and include time frames or benchmarks, where appropriate.

Next Steps:

- OSHA will develop key general policies and procedures for preparing communication products and make these procedures available to the public. It will review and disseminate these products in a timely manner.
- OSHA will develop a communications plan for optimal dissemination of the final product.

Additional Information: The report (GAO-08-265) is available at <http://www.gao.gov/new.items/d08265.pdf>.

“OSHA Strategic Management Tool, Version 1.5,” December 2007 (Eastern Research Group)

Relevance: The report consists of the second version of a user manual for the OSHA Strategic Management Tool. The Tool will help the agency use historic and current workplace demographics and occupational injury and illness experience to predict industry-level outcomes and to improve strategic management planning. It is also part of the agency’s PART Improvement Plan.

Findings and Recommendations:

- OSHA made significant strides in addressing the objective of improving data timeliness and integration. Version 2 of the Tool moves OSHA closer to an integrated data system.
- ERG recommended that OSHA develop an evaluation framework to establish input and output parameters and methodologies to enable program evaluations to be used as data inputs to the Tool.

Next Steps:

- OSHA will continue to implement refinements to and issue updated versions of the Tool.

Additional Information: The report is available by contacting OSHA’s Office of Evaluations & Audit Analysis at 202-693-2400.

Data Quality and Top Management Challenges

Data quality for this performance goal is rated *Good*.⁴⁷ For the fatality goal, the agency relies on its Integrated Management Information System (IMIS) for fatality data and BLS Current Employment Statistics for employment data. IMIS data provide the best count of fatalities under OSHA jurisdiction. The IMIS and the BLS Current Employment Statistics data are complete, reliable, accurate, and verifiable. IMIS, which has numerous automated quality control and edit checks, uses a well-defined and tested protocol for counting. For the injury and illness goal, the agency uses data from the BLS Annual Survey of Occupational Injuries and Illnesses. While this survey provides the most comprehensive and reliable injury and illness data currently available on a national level, results are not available until nine and a half months after the end of the calendar survey year. Consequently, OSHA’s estimate for the fiscal year is a projection based on available data from calendar year 2003 onward. In September 2008, the GAO launched a study of OSHA’s efforts to ensure the accuracy of reported injury and illness rates. The study will

⁴⁷ Information on DOL’s Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.



focus on how OSHA's injury and illness data are collected and reported, and will assess other studies that have analyzed the accuracy of OSHA injury and illness data.

Collecting complete and comprehensive data on OSHA's Voluntary Programs remains a challenge for the Department (see *Protecting the Safety and Health of Workers* in the Top Management Challenges section of Management's Discussion and Analysis). While OSHA's voluntary compliance programs yield many positive outcomes, the OIG found that much of the agency's data are limited. Also, GAO recommended that OSHA identify cost-effective methods of collecting complete and comparable data on program outcomes. In response, OSHA now collects more complete data on voluntary programs as a result of program refinements and is developing a new OSHA Information System – to be completed in September 2010. The new system will alert Consultation Program Officers of employers with serious workplace hazards requiring OSHA enforcement action. The new system will not allow the officers to grant extensions of the deadline for addressing the hazard unless the employers have provided appropriate interim protections for their employees.



Reduce work-related fatalities, injuries, and illnesses in mines.

Performance Goal 08-3B (MSHA)

Indicators, Targets and Results

*Indicator target reached (Y), improved (I), or not reached (N) **Estimated		FY 2003 Goal Not Achieved	FY 2004 Goal Sub- stantially Achieved	FY 2005 Goal Not Achieved	FY 2006 Goal Not Achieved	FY 2007 Goal Sub- stantially Achieved	FY 2008 Goal Sub- stantially Achieved
Mine industry fatalities per 200,000 hours worked	Target	.020	.022	.022	.021	.0201	.0191
	Result	.023	.017	.018	.022	.0200	.0159**
	*	N	Y	Y	N	Y	Y
	Cost	—	—	—	—	\$121	\$132
Mine industry injuries per 200,000 hours worked	Target	3.79	3.85	3.48	3.13	2.82	3.41
	Result	4.34	4.07	3.93	3.72	3.50	3.19**
	*	N	N	N	N	I	Y
	Cost	—	—	—	—	\$107	\$116
Percent of respirable coal dust samples exceeding the applicable standards for designated occupations	Target	14.2%	11.1%	10.1%	9.5%	9.0%	11.5%
	Result	11.7%	10.2%	10.8%	11.3%	12.20%	10.31%
	*	Y	Y	N	N	N	Y
	Cost	—	—	—	—	\$50	\$58
Percent of silica dust samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines	Target	—	—	—	—	75.5%	31.18%
	Result	—	—	—	—	31.82%	31.33%
	*	—	—	—	—	Y	I
	Cost	—	—	—	—	\$35	\$35
Percent of noise samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines	Target	—	—	—	—	71.3%	64.23%
	Result	—	—	—	—	65.54%	57.03%
	*	—	—	—	—	Y	Y
	Cost	—	—	—	—	\$18	\$16
Percent of noise exposures above the citation level in coal mines	Target	—	—	baseline	5.0%	4.8%	3.59%
	Result	—	—	5.3%	4.4%	3.66%	4.55%
	*	—	—	N	Y	Y	N
	Cost	—	—	—	—	\$25	\$31
Goal Net Cost (millions)		—	—	\$307	\$348	\$356	\$388

Source(s): Mine Accident, Injury, and Employment information that mine operators and non-exempt contractors report to MSHA under Title 30 Code of Federal Regulations Part 50, dust samples collected by MSHA inspectors; Coal Mine Safety and Health MIS, and Metal and Non-Metal Mine Safety and Health MIS.

Legacy Data: Some indicators not shown for FY 2002-06. Complete indicators, targets and results for FY 2002-06 are available in the FY 2006 report at <http://www.dol.gov/sec/media/reports/annual2006/PGD.htm>. See Performance Goals 06-3.1A and 06-3.1B.

Note: In FY 2003-06, MSHA had separate safety and health goals and in FY 2005, OSHA and MSHA shared performance goals. Achievement is restated as if there had been a single MSHA goal. Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.



Program Perspective and Logic

The Mine Safety and Health Administration's (MSHA) mission is to protect the safety and health of the nation's miners under the provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act).

Since the earliest days, the job of mining coal and other useful materials out of the earth has been one of the world's most dangerous occupations. Public concern about the fatalities, injuries and destruction resulting from mine accidents prompted passage of much-needed safety legislation, and intensified the search for safer mining methods and improved training practices and technology. Growing cooperation among industry, labor and government also has contributed to making mining safer and more healthful.

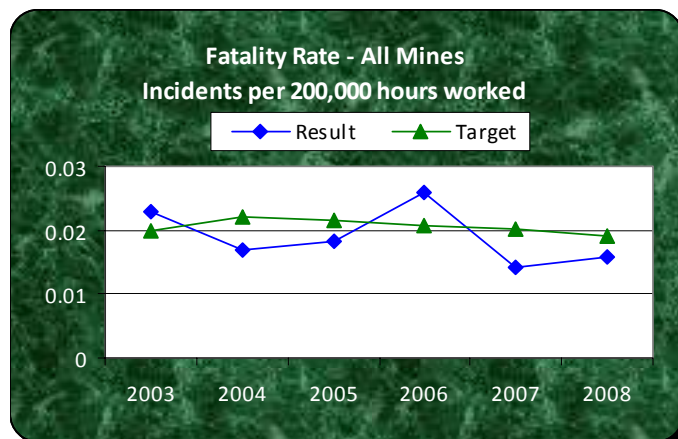
Mining deaths and injuries have significantly declined over the past 30 years. In 1978, the first year MSHA operated under the Mine Safety and Health Act of 1977, 242 miners died in mining accidents. Last year, in 2007, 67 fatalities were reported. Despite this decline, however, the current fatality and injury numbers (and frequency rates) remain unacceptable. In FY 2008, MSHA implemented its *100 Percent Inspection Plan* and accomplished its goal of completing every required inspection at every mine throughout the country. MSHA uses incidence rate indicators – the number of fatalities and injuries per 200,000 hours worked by miners – to assess the effectiveness of its efforts to protect the safety of the nation's miners. These rates reflect not only the number of fatalities and injuries, but also the amount of time (hours worked) miners are exposed to potential hazards. There are two sets of health indicators for this performance goal, which target reductions to exposures to noise and dust in coal mines, and reductions in low-level exposure samples taken for noise and silica in metal and non-metal (M/NM) mines. These indicators address significant health risks to miners; noise exposure is a major health concern because it may lead to hearing loss, and exposure to coal and silica dust may cause lung disease such as pneumoconiosis (black lung) among coal miners and silicosis among miners in metal and nonmetal mines.



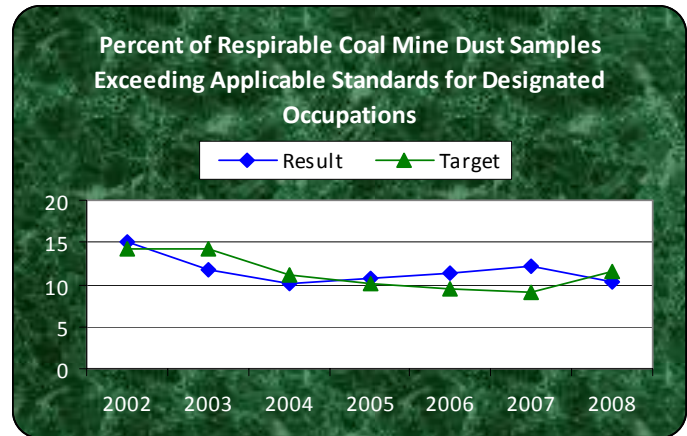
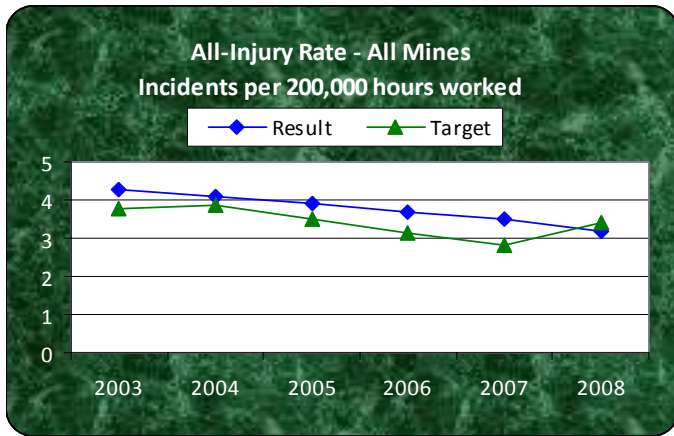
Simulating real events and emergencies is one of the most effective ways to train people. Recognizing this, MSHA created concrete burn pads to give fire brigade and mine rescue team members hands-on experience using different devices in fighting fires in a mining environment. Prior to the hands-on experience, trainees must complete classroom training on fire classifications, firefighting equipment, and various hazards such as electrical shock, toxic and asphyxiating gases, oxygen deficiency, and explosive gases. Photo credit: DOL/MSHA

Analysis and Future Plans

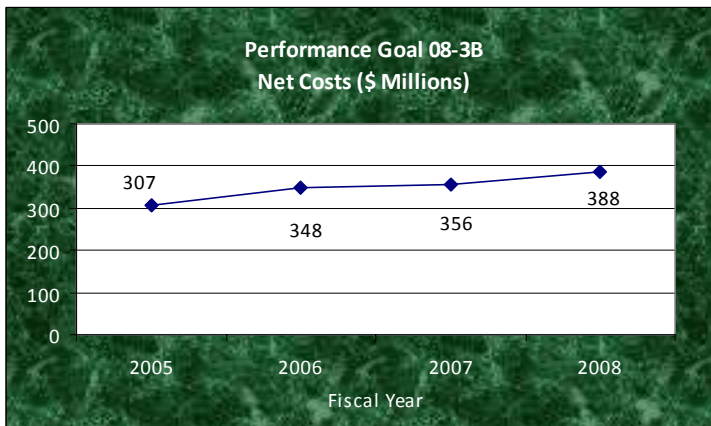
MSHA substantially achieved its performance goal, reaching four of six indicator targets, and substantially reaching its silica dust sample indicator target. The fatality incidence rate and all-injury incidence rate targets were reached this year. In addition, the all-injury incidence rate dropped for the fifth consecutive year. Coal mine noise exposure targets were not reached, but the targets for coal dust and M/NM mine noise were reached. MSHA did not reach its target to reduce the percent of coal mine noise exposures above the citation level. Attainment of the coal mine noise target was



partially linked to increased coal production, which correlates with new mining entities that lack adequate noise controls and more difficult mining processes which generate noise at higher levels.



MSHA made many changes and enhancements in FY 2008; its *100 Percent Inspection Plan* was fully implemented. MSHA increased its presence at mine sites, improved the quality of inspections, implemented a new inspection tracking system, strengthened and updated its citation and penalty structure, and aggressively pursued scofflaw mine operators. MSHA also increased its number of enforcement personnel, and improved inspector training. For example, MSHA increased course offerings and enhanced course content to include new inspection tracking requirements, documentation for roof control files, and oversight of mine Emergency Response Plans. MSHA believes the increased presence of its enforcement staff at the job sites has – and will continue to have – a positive impact on mine safety and health. While many of these changes are a result of the MINER Act, MSHA has also



revised other policies and procedures, such as final rules on Mine Rescue Team Equipment and Asbestos, Special Emphasis Programs for Retreat Mining and Respirable Dust, and an Inspection Tracking System which will enhance MSHA’s ability to evaluate inspection progress and compliance with procedures.

Costs for this performance goal increased ten percent from FY 2007-08, due primarily to increased enforcement activity in support of the *100 Percent Inspection Plan*. Prior increases (FY 2005-07) are attributed to higher compensation and rent expenses.

PART, Program Evaluations and Audits

PART Year	Rating	PART Findings and Improvement Plan:
2003	Adequate	http://www.whitehouse.gov/omb/expectmore/summary/10001101.2003.html
FY 2008 Progress on PART Improvement Plan		
<ul style="list-style-type: none"> Implementing the MINER Act of 2006. MSHA published the final rule on Refuge Alternatives and the final rule on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Material in Underground Coal Mining. MSHA continues to work on wireless communications or tracking systems and continues to review and approve Emergency Response Plans. Completing 100 percent of the required inspections. MSHA completed all required inspections in FY 2008. Deploying a new Web tool which allows mining companies to review their history and how assessments are broken down. MSHA activated a new feature on its Web site that provides additional tools to assess the safety performance at mines and which will enable users to access violations per inspection day and repeat violations of the same standard. 		



“Mine Safety: Additional Guidance and Oversight of Mines’ Emergency Response Plans Would Improve the Safety of Underground Coal Miners,” April 2008 (GAO)

Relevance: The MINER Act of 2006 requires underground coal mine operators to develop emergency response plans to improve accident preparedness, including providing a refuge of air to miners trapped underground and wireless communications systems. GAO examined the effectiveness of the approval process and the status of implementation of the plans.

Findings and Recommendations:

- GAO recommended that MSHA clarify guidance on requirements for key components of Emergency Response Plans; and that MSHA ensure that district offices are consistently applying MSHA guidance on approving and enforcing Emergency Response Plans.
- GAO also recommended that MSHA and NIOSH jointly develop guidance on how mine operators can meet the June 2009 deadline for wireless communication.

Next Steps:

- Rulemaking on refuge alternatives for underground mines to increase the survival of miners trapped underground will be completed by December 2008.
- Work with NIOSH to evaluate communication technologies and to provide guidance for mine operators on meeting the requirement to provide post accident wireless communication systems is ongoing. Should wireless technology not be commercially available by June 15, 2009, the MINER Act allows for alternative means of compliance.
- In June 2008, MSHA issued guidance to District Managers clarifying requirements for Emergency Response Plans. Plans from mines throughout the country are being reviewed to ensure consistency.
- MSHA will be implementing policy to ensure that repeat violations are captured in a mine’s violation history, that the penalty assessment amount reflects that history, and that operators comply with the most protective standards.

Additional Information: The report (GAO-08-424) is available at <http://www.gao.gov/cgi-bin/getrpt?GAO-08-424>.

Data Quality and Top Management Challenges

Data quality for this goal is rated *Very Good* – an increase from the *Good* rating received in 2007.⁴⁸ The OIG and GAO pointed out the lack of data on contractor⁴⁹ hours worked at the mine level and recommended that mine operators report all hours worked for both employees and contractors. MSHA could then verify that all data relevant to reported injuries and fatalities have been included. MSHA officials believe that the data on non-exempt contractor hours are sufficient at the national level for calculating the all-injury and fatality rates. However, having contractor data at the mine level could enhance enforcement effectiveness. The OIG also pointed out that some MSHA District or Field offices did not record their noise sample results and some did not record the correct date of the sample results. As a result of this finding, MSHA is implementing and improving its quality controls, to help ensure that the sampling information that they gather is accurately recorded in the management data system. Additionally, MSHA is ensuring that the health sampling procedures in its Health Inspection Procedure Handbooks are implemented through management oversight. In response to previous Major Management Challenges, MSHA created an Office of Accountability and revised the MSHA Accountability Program Handbook, continued to implement the MINER Act, and implemented its succession plan to replace retiring mine inspectors.

⁴⁸ Information on DOL’s Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.

⁴⁹ Certain independent contractors are exempt from reporting employment and injury information if they participate in “low hazard” mining activities as defined by MSHA policy. Non-exempt contractors report employment information for aggregate work locations, not by individual mine site.



Ensure workers receive the wages due them.

Performance Goal 08-3C (ESA)

Indicators, Targets and Results

*Indicator target reached (Y), improved (I), or not reached (N)		FY 2004 Goal Achieved	FY 2005 Goal Achieved	FY 2006 Goal Achieved	FY 2007 Goal Not Achieved	FY 2008 Goal Not Achieved
Number of workers for whom there is an agreement to pay or an agreement to remedy per 1,000 enforcement hours in complaint cases	Target	—	—	baseline	296	274
	Result	—	—	293	271	272
	*	—	—	Y	N	N
	Cost	—	—	\$112	\$123	\$123
Percent of prior violators who achieved and maintained Fair Labor Standards Act (FLSA) compliance following a full FLSA investigation	Target	74%	72%	73%	77%	67%
	Result	71%	72%	76%	66%	56%
	*	N	Y	Y	N	N
	Cost	—	—	\$27	\$30	\$30
Low-wage workers assisted per 1,000 case hours	Target	—	—	—	304	422
	Result	—	—	—	418	302
	*	—	—	—	Y	N
	Cost	—	—	\$39	\$45	\$38
Number of wage determination data submission forms processed per 1,000 hours	Target	baseline	1,506	1,491	1,852	2,662
	Result	1,491	1,667	1,834	2,636	2,246
	*	Y	Y	Y	Y	N
	Cost	—	—	\$23	\$23	\$35
Goal Net Cost (millions)		—	\$214	\$214	\$221	\$227

Source(s): Wage and Hour Investigator Support and Reporting Database (WHISARD), regional logs and reports on local initiatives, and investigation-based compliance surveys.

Legacy Data: Some indicators not shown for FY 2004-06. Complete indicators, targets and results for FY 2004-06 are available in the FY 2006 report at <http://www.dol.gov/sec/media/reports/annual2006/PGD.htm>. See Performance Goal 06-2.1A.

Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.

Program Perspective and Logic

The Employment Standards Administration's Wage and Hour Division's (WHD) mission is to promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce. Through WHD, the Department assures compliance with laws establishing minimum standards for wages and working conditions. These include the minimum wage, overtime, and youth employment provisions of the Fair Labor Standards Act (FLSA), the protections afforded to workers under the Migrant and Seasonal Agricultural Worker Protection Act and the Family and Medical Leave Act. WHD enforces field sanitation standards in agriculture and government contract prevailing wage statutes and administers the wage determination provisions of the Davis-Bacon and Service Contract Acts.

The program's performance objectives are to maximize benefits for the greatest number of workers through efficient complaint resolution, to promote sustained compliance among investigated employers, to increase compliance on behalf of low-wage workers in industries with the most persistent and serious violations, and to issue accurate and timely wage rates for workers on Federally-funded or assisted contracts. WHD balances its enforcement resources among three strategies – compliance assistance, partnerships, and enforcement (complaint-driven and directed investigations). Compliance assistance activities promote voluntary compliance by employers. Partnerships leverage resources and broaden the program's impact. Directed investigations in low-wage industries



– where workers are reluctant to complain – detect, remedy, and deter violations. Complaint investigations serve individual complainants and provide opportunities for detecting and remedying violations on behalf of other employees. The wage determination strategies center on increased wage survey participation, timely processing of wage data submission forms, and effective verification of wage rate information.

WHD measures results for each of its four performance objectives. Performance indicators for complaint resolution and low-wage industry compliance promote efficient investigations and encourage the agency to secure remedies on behalf of all potentially affected workers. Complaint investigations have demonstrated a positive effect on future compliance and directed enforcement initiatives have discouraged recidivism and boosted industry-wide compliance. Efficient handling of complaint and directed investigations can serve to promote compliance. To measure trends in recidivism rates, WHD conducts an annual compliance survey of prior violators. These survey results are used to establish annual goals, assess the agency's impact on employer behavior, and test the effectiveness of various regional strategies on long-term compliance. The wage determination performance indicator tracks efficiencies in the review and analysis of survey data, which in turn drives the goal for improved timeliness of Davis-Bacon Act wage rates.

Changes in employers' and employees' economic security have an impact on compliance with laws enforced by WHD. Factors such as increased competition among employers, higher supply costs, use of multiple levels of subcontracting, and greater use of contingent workers can contribute to employer non-compliance. WHD identified higher levels of unemployment and increased employment of immigrants in low-wage industries as two significant factors affecting enforcement outcomes. Foreign-born workers constituted 15.7 percent of the labor force in 2007 — 47.7 percent of the net increase in the labor force from 2000 to 2007. WHD attributes fewer complaints and greater difficulty in identifying violations to workers' reluctance to discuss compliance issues given these economic trends. In recent years, back wage collections and the number of workers assisted increased despite the declining number of cases and complaints (23 percent since 2003). WHD's recovery levels reflect its targeted enforcement strategy to conduct more resource intensive investigations to secure compliance on behalf of more workers. As a result, investigators are taking longer to complete more complex investigations, as indicated by the FY 2008 result.



The WHD employs targeted strategies of enforcement, compliance assistance, and public awareness to ensure the continued safe employment of young workers. One of the enforcement priorities is to increase compliance in low-wage industries — including compliance with the Fair Labor Standards Act's youth employment provisions. In FY 2008, WHD focused on increasing compliance among employers that hire young workers to load or operate paper balers and compactors. Such hiring is in violation of a hazardous occupation order. Nationwide, local WHD offices targeted establishments that commonly employ minors in violation of the order by mailing compliance assistance materials to employers; investigating retail stores; posting stickers (see photo); and reaching out to shopping mall management companies. To increase public awareness, they trained educators on the law, made public service announcements, hosted rallies, and publicized the agency's *YouthRules!* Web site. Photo credit: DOL/ESA

Analysis and Future Plans

In FY 2008, WHD set performance targets for the agency's four indicators to improve upon the FY 2007 results. The agency did not reach its established targets in FY 2008. The number of workers assisted per 1,000 enforcement hours in complaint cases, 272 in FY 2008, was higher than the 2007 result of 271 but just under the target of 274. WHD has noted a slight corresponding decrease in the average number of days to conclude a complaint investigation, which may be attributed to complaint resolution strategies, such as training on efficient investigation techniques, reviewing complaint inventories weekly, and shifting investigators to offices with high backlogs, that were implemented in every district office in FY 2008. The increase in resource intensive H-1B complaint cases may



also be affecting the result. WHD did not reach its target of 422 workers assisted in low-wage industries per 1,000 enforcement hours. The FY 2008 result was 302 assisted per 1,000 hours. The FY 2007 result for this measure, however, was impacted by one significant case. If that case is excluded, WHD's FY 2007 result would have been 293 workers assisted per 1,000 enforcement hours, and WHD would have realized a three percent increase in FY 2008 for this performance indicator. There are other indications that the agency was more efficient in FY 2008 than previous years. Since FY 2005, for example, WHD has increased the percent of directed investigations with violations by nearly nine percentage points, which demonstrates increased efficiencies in targeting industries and employers with violations. WHD realized a similar increase (2.6 percentage points) in complaint violation cases, which suggests better and more efficient complaint screening and processing.

WHD will continue to integrate the findings of its low-wage evaluation studies into its directed enforcement program. WHD's FY 2009 performance plan maintains an agency-wide focus on identifying and remedying violations that may arise from contingent employment relationships, especially those involving misclassification of employees as independent contractors. Each district office will also develop and refine strategies to ensure that complaint investigations affect compliance on behalf of all workers that may be subject to a violation, and that complaint investigations are resolved in a timely manner. Nevertheless, WHD anticipates that the number of immigrants participating in the workforce and the increase in contingent employment relationships will continue to challenge the agency's effort to affect compliance. These economic and workforce trends, including associated language barriers, complicate WHD's investigations and its ability to meet these efficiency objectives.

WHD continues to see a decline in the percent of prior violators that were found in compliance. The overall level of compliance among prior violators decreased by ten percentage points from 66 percent in FY 2007 to 56 percent in FY 2008. The severity of violations, however, also declined as evidenced by the number of employers that owed less back wages to fewer workers. In FY 2008, WHD increased the sample size of prior violators to test the effectiveness of various regional strategies on recidivism. Each region will continue to refine its strategic approach to increasing compliance among prior violators. Successful re-investigations and compliance strategies will be analyzed, refined, and disseminated as best practices in FY 2009.

Wage determination efficiency also declined in FY 2008. WHD processed 2,246 forms per 1,000 hour in FY 2008 – a 15 percent decline from FY 2007. With the long-anticipated completion of new automated technologies, WHD regional offices shifted their focus from processing new survey forms to processing a backlog of data submission forms from pending surveys that have been on hold while the automated systems were being implemented. The backlogged data submission forms required staff to perform a more complex time-consuming review than newer survey data forms. As a result, the number of forms processed decreased and the time for processing forms increased in FY 2008. The survey backlog will be eliminated by the end of calendar year 2008, and WHD should see rapid improvements in the rate at which survey data submission forms are processed.

Net costs for this performance goal rose slightly from PY 2004-07, reflecting increases in salaries and expenses.

PART, Program Evaluations and Audits

PART Year	Rating	
2006 (Enforcement and Compliance)	Moderately Effective	PART Findings and Improvement Plan: http://www.whitehouse.gov/omb/expectmore/summary/10003908.2006.html
FY 2008 Progress on PART Improvement Plan		
<ul style="list-style-type: none"> Standardizing the organizational process for developing and monitoring strategic partnerships. To increase the effectiveness of its compliance assistance partnership programs, WHD is requiring all regional and local partnerships to capture and report their outputs. Reviewing and implementing recommendations of independent evaluations to improve program performance and efficiency. WHD started implementing recommendations from an evaluation of the agency's enforcement efforts in 		



low-wage industries. The recommendations outlined approaches for more effectively targeting FLSA violators in priority low-wage industries and ensuring that corresponding performance targets promote ambitious outcomes.

PART Year	Rating	
2003 (Prevailing Wage Determination)	<i>Results Not Demonstrated</i>	PART Findings and Improvement Plan: http://www.whitehouse.gov/omb/expectmore/summary/10001099.2003.html

FY 2008 Progress on PART Improvement Plan

- *Modifying wage survey and outreach strategies to improve data collection processes.* WHD continues to examine ways to improve the wage survey, outreach, and data collection processes to reduce the average age of Davis-Bacon wage rates. The program is targeting an average age of five years by 2012, against a 2007 baseline of 9.5 years. WHD also updated the Automated Survey Data System guide to ensure consistent protocols among survey staff.
- *Improving program management by establishing a new-hire and refresher training program for Wage Analyst, Wage Specialists, and Construction Industry Research and Policy Center staff.* WHD established a training program for regional and national WHD staff and for the University of Tennessee’s Construction Industry Research and Policy Center to improve program management.

“Evaluating the Efficiency and Effectiveness of WHD’s Low-Wage Program,” March 2008 (Mathematica, Inc.)

Relevance: WHD has recently implemented strategies to promote internal efficiencies, increase productivity, and maximize effectiveness. This evaluation analyzed WHD’s investigative efficiency and targeting strategies in low-wage industries.

- Findings and Recommendations:**
- WHD has been successful in targeting and screening investigations in industries and establishments with substantial violations.
 - Directed investigations are an effective way to detect employee violations, although generally less efficient than complaint investigations in detecting back wages, except in restaurants.
 - The relationship between establishment age and investigative efficiency differs by industry among both directed and complaint cases.

- Next Steps:**
- WHD will incorporate the report findings into the FY 2009 planning process.
 - The findings will help the agency more effectively target violators and ensure that its corresponding performance targets are ambitious.

Additional Information: For additional information on this report, contact the Wage and Hour Division, Office of External Affairs, 200 Constitution Avenue, NW, Washington, D.C. 20210, or call (202) 693-0051.

“Evaluation of Recidivism Among Previously Investigated Employers,” January 2008 (SRA International, Inc.)

Relevance: The study assessed the effectiveness of a variety of WHD enforcement and compliance methods intended to reduce FLSA recidivism among employers who have previously been detected violating provisions of Acts enforced by WHD; the goals and measures relating to recidivism, including the Government Performance and Results Act measure reported in the Annual Performance and Accountability Report; and the effectiveness of the enforcement tools and compliance actions that WHD uses to discourage recidivism among previously investigated employers.

- Findings and Recommendations:**
- Full compliance is a valid measure, but employers can improve their performance in relation to the goal without reaching it. Adopting measures that focus more directly on the workers and their wages would more clearly connect the measure to the WHD’s stated goal and to statutory intent.
 - Overall, the agency’s enforcement actions and compliance tools have had substantial success in improving the compliance of prior violators.

- Next Steps:**
- WHD is reviewing the recommendation to revise the measure for this goal in light of GAO’s criticism related to the frequent modification of performance measures.
 - For purposes of internal planning and best practices, WHD is measuring whether employers maintain substantial compliance following a WHD investigation, which is defined as 50% improvement in both back wages due and employees affected from last full investigation and the survey reinvestigation and where fewer than either 20% of the establishment’s workforce or 20 total employees are due back wages.

Additional Information: For additional information on this report, contact the Wage and Hour Division, Office of External Affairs, 200 Constitution Avenue, NW, Washington, D.C. 20210, or call (202) 693-0051.



“Fair Labor Standards Act: Better Use of Available Resources and Consistent Reporting Could Improve Compliance,” July 2008 (GAO)	
<p>Relevance: In response to a congressional request, GAO examined FLSA compliance activities from FY 1997-2007 and the effectiveness of WHD’s efforts.</p>	
<p>Findings and Recommendations:</p> <ul style="list-style-type: none"> • GAO recommended that WHD track all complaints and actions taken in response to them, and use this information as part of its resource allocation process; • Establish a process to solicit input from external stakeholders, such as employer associations and worker advocacy groups, and incorporate it, as appropriate, into planning processes; • Incorporate findings of commissioned studies in its strategic planning process to improve targeting of employers for investigations; and • Improving its tracking of whether penalties are assessed when repeat or willful violations are found and whether back wages and penalties assessed are collected. 	<p>Next Steps:</p> <ul style="list-style-type: none"> • WHD will remind field managers of their obligation to comply with the Field Operations Handbook guidance on registering complaints and will implement a pilot program to track incoming inquiries at the district office level. • WHD will document its consideration of stakeholder input during its FY 2010 Executive Leadership Team planning meeting, and continue to incorporate findings of commissioned studies in its strategic planning process. • WHD will dissolve ineffective partnerships and evaluate new opportunities before committing scarce agency resources. • To complement the information on recidivism that the agency already collects, WHD will develop standardized reports. These data will help determine the effects of back wage collection and assessment of penalties on reducing recidivism.
<p>Additional Information: The report (GAO-08-962T) is available at http://www.gao.gov/new.items/d08962t.pdf.</p>	
“Audit of the Wage and Hour Division, New Orleans District Office’s Processing of Workers’ Complaints Received in the Aftermath of Hurricane Katrina,” March 2008 (OIG)	
<p>Relevance: OIG examined WHD’s processing of worker complaints received in the aftermath of Hurricane Katrina. The audit objectives were to determine whether the New Orleans Wage and Hour District Office (1) was adequately staffed, (2) used intake procedures that impeded workers’ ability to file complaints, (3) adequately communicated with complainants, and (4) performed outreach to gather and investigate complaints made by migrant workers.</p>	
<p>Findings and Recommendations:</p> <ul style="list-style-type: none"> • WHD adequately staffed the New Orleans office to serve the workforce after Hurricane Katrina. • The WHD Continuity of Operations Plan (COOP) should include contingencies for similar disasters; • OIG also recommended that WHD district offices maintain a record of all inquiries, and that DOL ensure that WHD investigators comply with the policy on regular communication with complainants. 	<p>Next Steps:</p> <ul style="list-style-type: none"> • WHD has modified its COOP plan. • WHD will ensure that any newly developed staffing allocation plans include criteria related to the state laws and the level of state enforcement. • WHD has directed field managers to comply with the policy on regular communications with complainants and will implement a pilot program to track incoming inquiries at the district office level.
<p>Additional Information: The report is available at http://www.oig.dol.gov/public/reports/oa/2008/04-08-002-04-420.pdf.</p>	

Data Quality and Top Management Challenges

Data quality for this performance goal is rated *Very Good*.⁵⁰ With the exception of the wage determination measures, performance information is extracted from the Wage and Hour Investigator Support and Reporting Database (WHISARD), the agency’s record of investigative case findings and investigator enforcement time. Investigative case records are reviewed by WHD management staff and are the subject of internal accountability reviews. The data are reported quarterly and performance statistics are considered throughout the agency’s strategic planning process. In FY 2008, WHD completed its fourth study to verify the accuracy and reliability of data reported in WHISARD. With respect to the data used to develop wage determinations, WHD implemented a time reporting process to ensure accurate and timely reporting. WHD has begun tabulating and reviewing the data monthly to ensure accuracy.

⁵⁰ Information on DOL’s Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.



Federal contractors achieve equal opportunity workplaces.



Performance Goal 08-3D (ESA)

Indicators, Targets and Results

*Indicator target reached (Y), improved (I), or not reached (N)		FY 2003 Goal Achieved	FY 2004 Goal Achieved	FY 2005 Goal Achieved	FY 2006 Goal Achieved	FY 2007 Goal Achieved	FY 2008 Goal Not Achieved
Discrimination rate for audited federal contractors	Target	9%	9%	7%	6%	2%	1%
	Result	1.2%	1%	2%	1.7%	1%	1.8%
	*	Y	Y	Y	Y	Y	N
	Cost	—	—	—	\$68	\$72	\$71
Compliance rate for all other Equal Employment Opportunity (EEO) requirements	Target	59%	61%	62%	64%	86%	89%
	Result	72.4%	91%	86%	87.2%	88%	86%
	*	Y	Y	Y	Y	Y	N
	Cost	—	—	—	\$29	\$31	\$31
Goal Net Cost (millions)		—	—	\$99	\$97	\$103	\$102

Source(s): Case Management System (CMS).

Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.

Program Perspective and Logic

The Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) administers and ensures compliance with three equal employment opportunity laws that prohibit Federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, national origin, disability, and protected veterans' status. These laws are: Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.



At OFCCP's 2007 managers' conference in New Orleans, Louisiana, James C. Pierce, Director of the Functional Affirmative Action Program Unit (FAAP), addressed regional, district, and area managers. In 2002, OFCCP enacted new policy initiatives and directives to clarify guidance for employers and more enforceable standards to improve the agency's civil rights enforcement. The FAAP provision allows contractors to establish multiple affirmative action programs based on the operational components of their lines of business or functions. Photo credit: DOL/ESA

Through fair and effective enforcement of these laws, the Department seeks to ensure that Federal contractors provide equal employment opportunity to all applicants. Reduced incidence of discrimination among audited Federal contractors demonstrates a positive correlation between targeted enforcement and compliance assistance activities with performance goal achievements. Performance results reflect only the Federal contractors audited in one fiscal year, and as such, cannot be generalized to all contractors. Nonetheless, these annual results allow OFCCP to determine its progress in identifying and deterring discrimination among audited contractors. For example, selection is based on a number of factors — including Equal Employment Opportunity Reports, complaints against contractors, the date since the last audit, and statistical analysis to determine likelihood of violations. In addition, several external factors affect the selection list, including changes in business ownership or corporate structure that occur between the survey and publication of the report.

Initiatives implemented in the last several years are making OFCCP a more effective and efficient civil rights enforcement agency. Enforcement efforts focus on systemic discrimination,



cases involving a significant number of workers or applicants subjected to discrimination. The Federal Contractor Selection System’s enhanced selection method for identifying which contractors will be audited has helped OFCCP monitor a larger portion of the federal contractor universe than in the past. The Data Integrity Team Initiative has resulted in fewer hours spent researching contractor jurisdiction, improved case management, and increased resources for systemic discrimination cases. The Compliance Assistance Program focuses on raising contractor awareness of equal employment opportunity obligations and encouraging self-evaluations. OFCCP provides one-on-one customer assistance, including online tools and resources that teach contractors how to comply with Federal employment laws.

Analysis and Future Plans

OFCCP did not reach its goal. For audited Federal contractors, the discrimination rate rose from one percent in FY 2007 to 1.6 percent in FY 2008 and compliance with all other EEO requirements fell slightly, to 87 percent. These results were due to a higher number of systemic cases closed and fewer completed compliance evaluations. In FY 2008, OFCCP completed 4,333 compliance evaluations, of which 78 were classified as having systemic violations. By comparison, OFCCP closed 60 systemic violation cases and completed 4,923 compliance evaluations in FY 2007.

While performance fell short in FY 2008, OFCCP has worked to improve its effectiveness in several program areas. To attain greater consistency and efficiency, OFCCP developed a procedure for the analysis of compensation data to better support the desk audit process, including enhanced screening procedures for compensation evaluations. The design and deployment of the new Federal Contract Compliance System remained a priority as the system significantly enhances statistical data tracking throughout the compliance evaluation process.

In FY 2008, OFCCP formulated two new initiatives that promote the hiring of veterans and protect the rights of applicants with disabilities. The Good Faith Initiative for Veterans Employment reviews the efforts of Federal contractors in seeking, employing, and promoting qualified veterans in the workplace and rewards those who demonstrate exemplary affirmative action efforts. The Ensuring the Accessibility of Online Application System is designed to make certain that qualified applicants with disabilities, including disabled veterans, can compete for jobs when using an online application system.

Costs for this performance goal were virtually unchanged from FY 2007-08.

PART, Program Evaluations and Audits

PART Year	Rating	PART Findings and Improvement Plan:
2004	Adequate	http://www.whitehouse.gov/omb/expectmore/summary/10000332.2004.html
FY 2008 Progress on PART Improvement Plan		
<ul style="list-style-type: none"> Exploring the development and implementation of new performance measures with challenging targets for all agency performance goals. OFCCP is expanding the available quantifiable data elements in the current Case Management System, in addition to other outside data elements that may be related to measurement of performance indicators. As part of this process, enhancements to the system were tested and deployed throughout FY 2008. Continuing to modernize the agency's data collection system. The new Federal Contract Compliance System will be designed to further expand available quantifiable data elements. A Request for Information to collect written information about the capabilities of various suppliers will be issued in early FY 2009. 		
“Women’s Earnings: Federal Agencies Should Better Monitor Their Performance in Enforcing Anti-Discrimination Laws,” August 2008 (GAO)		
Relevance: This evaluation assessed how DOL enforces laws addressing gender pay disparities among Federal contractors, provides outreach, and determines its performance in these areas.		
Findings and Recommendations:		Next Steps:
<ul style="list-style-type: none"> GAO found that OFCCP has not yet evaluated whether its statistical model effectively predicts systemic discrimination. 		<ul style="list-style-type: none"> OFCCP’s contractor scheduling is not based solely on the use of this statistical model, but on several factors. Nonetheless, OFCCP has set aside funding to continue an evaluation of its



- OFCCP's data system lacks a unique code to help the agency easily determine contractor compliance with the self-evaluation requirement.

- OFCCP does not depend solely on contractor self-evaluation to identify potential discrimination. Rather, the agency conducts its own audit of a contractor's employment practices, including compensation activities. As noted above, OFCCP has planned an upgrade of its IT system to broaden the range of data input that will aid in program monitoring.

Additional Information: The report (GAO-08-799) is available at <http://www.gao.gov/products/GAO-08-799>.

Data Quality and Top Management Challenges

Data quality for this performance goal remains Very Good.¹ OFCCP continues to explore its data reporting capabilities to support the development of alternative measures to improve measurement validity. As discussed earlier, performance results reflect compliance and discrimination rates among a different set of contractors each year. Nonetheless, OFCCP's archaic database undermines the extent further improvements and changes can be realized, and a replacement system remains a top funding priority.

Despite the above GAO report findings on enforcement data quality, OFCCP does maintain robust quality controls for its core data on systemic discrimination, case closures, and violations – the principal data reported in the PAR. These data are cross-checked at several organizational levels and used in evaluating manager performance. In addition, OFCCP established a data integrity team in 2007, within the Division of Program Operations that audits the data system for data quality. Other examples of some of OFCCP's good data quality practices include updating the Case Management System with compliance audit data supporting performance goals, which are available in monthly, quarterly, and annual reports. OFCCP recently implemented a Business Process Rule which enforces the data collection requirements and responsibilities of each organizational level. This effort further enhances the timing and accuracy of data entries completed at field offices.



Reduce employer-employee employment issues originating from service members' military obligations conflicting with their civilian employment.



Performance Goal 08-3E (VETS)

Indicators, Targets and Results

*Indicator target reached (Y), improved (I), or not reached (N) **Estimated	FY 2006 Goal Achieved	FY 2007 Goal Achieved	FY 2008 Goal Not Achieved	
USERRA Progress Index (measures compliance and assistance performance)	Target	105%	101%	115%
	Result	108%	113%	106%**
	*	Y	Y	N
Goal Net Cost (millions)	\$11	\$10	\$10	

Source(s): USERRA Information Management System (UIMS).

Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.

Program Perspective and Logic

The Department's Veterans' Employment and Training Service (VETS) is responsible for protecting employment and reemployment rights of persons who are current or former members of the uniformed services, and who encounter barriers in civilian employment related to their service. These rights and protections were established by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

VETS provides a range of USERRA-related services, including compliance assistance to employers and protected individuals and investigation of individuals' complaints alleging violation of their rights. VETS seeks to reduce both employer violations and the filing of meritless complaints by protected individuals. The indicator for this goal focuses on resolving filed claims. DOL has found that most violations and meritless complaints could be avoided with greater knowledge of the rights and protections established by USERRA. For this reason, VETS has an active compliance assistance program directed at employers and members of National Guard and Reserve units to increase knowledge and understanding of USERRA's key provisions.

Goal achievement is measured using a comprehensive Progress Index that demonstrates reduction of violations and meritless complaints by consolidating indicators of cases and assistance (non-case-related contacts) using weights for each element that are determined by service priorities. It consists of seven compliance indicators and one assistance indicator. The compliance sub-indicators are:

1. Number of Guard/Reserve demobilized per USERRA claim filed by Guard/Reserve,
2. Number of Guard/Reserve demobilized per USERRA claim filed by Guard/Reserve in primary issues,⁵¹
3. Number of USERRA violations,
4. Number of USERRA violations in primary issues,
5. Number of meritless USERRA claims,
6. Number of meritless USERRA claims in primary issues, and
7. Average days cases remain in VETS jurisdiction.

The assistance indicator is the number of USERRA assistance contacts per Guard/Reserve mobilized and demobilized. The Employer Support for the Guard and Reserve, an agency in the Department of Defense, also provides outreach and handles USERRA inquiries. However, that agency is outside the scope of VETS' Progress Index.

⁵¹ Reinstatement and Military Obligations Discrimination



Analysis and Future Plans

The goal was not achieved, largely due to the effects of a significant increase in VETS' USERRA claims compared to the previous year. This increase was in part attributable to the termination of a VETS/U.S. Office of Special Counsel (OSC) demonstration project, which shifted roughly half of all Federal USERRA claims to OSC from FY 2005 through the first quarter of FY 2008. VETS' overall USERRA claims increased by 15 percent in FY 2008 compared to the previous year, with meritless claims increasing by 29 percent. However, violations decreased by seven percent, reflecting the impact of VETS' aggressive compliance assistance efforts, with over 562,000 individual contacts since September 2001. Compliance assistance efforts will continue to focus on National Guard and Reserve components, because they are the source of most USERRA claims. In FY 2007, for example, Guard/Reserve claims accounted for 81 percent of total claims. VETS expects this trend to continue and possibly increase due to mobilizations and demobilizations relating to the Global War on Terror.

Costs associated with this goal were relatively unchanged between FY 2006 and FY 2008.

PART, Program Evaluations and Audits

The USERRA program has not been subject to a PART review.

Data Quality and Top Management Challenges

Data quality for this performance goal was rated *Good*. While the data are complete and timely, there is room for improvement in verifiability and reliability. These aspects of the UIMS are being addressed by Quality Assurance Reviews at State, regional, and national levels. VETS has no DOL top management challenges.

