



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 focus on the effectiveness of these enforcement efforts and compliance programs. Here are a few highlights of FY 2009 results:

For Workers

- Workplace fatality and injury/illness rates continued a steady downward trend.
- In mines, the fatality rate and the all-injury and illness rate both decreased to seven-year lows.
- Wage and Hour law enforcement and compliance results improved by all five performance measures for the associated performance goal – in several cases reversing a 2-year slump.

For Employees of Federal Contractors

- The discrimination rate and compliance rates among audited contractors remained stable. However, more systemic cases are being identified and resolved.

For Returning Veterans

- Claims and violations under the Uniformed Services Employment and Reemployment Rights Act increased, but compliance and claims processing results improved.

For more specific information, see the Performance Goal narratives.



Several Southeast Texas counties were declared national disaster areas when Hurricane Ike made landfall on September 13, 2008. In the immediate aftermath, the WHD Houston district office mobilized staff in the affected communities to provide outreach and assistance to victims of the storm. The first phase of recovery involved installation of blue tarps on damaged roofs to prevent further property damage. More than 27,000 roofs were covered in seven weeks using about 42 million square feet of plastic. WHD staff worked with the U.S. Army Corps of Engineers to ensure that the thousands of laborers who converged on the area to install these blue tarps were paid the required legal wages, and WHD leadership temporarily reassigned an experienced manager from the agency's Northeast Region to Houston to oversee enforcement activities related to the rebuilding initiative. Twenty-three investigators from WHD offices across the country were assigned to the area on temporary details to assist. Through these efforts, the Houston district office conducted over 140 investigations and found over \$1.5 million in back wages due to approximately 2,500 employees. Other workers in industries such as trucking, healthcare, construction trades, school districts, and security companies, were also affected by the storm and by recovery efforts – so the Houston office and the corps of volunteers from WHD offices nationwide continue to maintain a strong enforcement presence in the affected area. Photo Credit: DOL/ESA

The following table provides net costs for all performance goals and indicators associated with this strategic goal.³⁴

| Goal or Indicator | Net Costs (\$Millions) ³⁵ | | |
|---|--------------------------------------|--------------------|--------------------|
| | FY 2007 PY 2006 | FY 2008 PY 2007 | FY 2009 PY 2008 |
| Strategic Goal 3: Safe and Secure Workplaces | \$1,237 | \$1,281 | \$1,304 |
| Performance Goals 09-3A (OSHA) Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards. | 547 | 554 | 556 |
| <i>Days away, restricted and transferred (DART) per 100 workers</i> | 547 | 554 | 556 |
| <i>Workplace fatalities per 100,000 workers for sectors covered by the OSH Act</i> | | | |
| Performance Goal 09-3B (MSHA) Reduce work-related fatalities, injuries, and illnesses in mines. | 356 | 388 | 403 |
| <i>Mine industry fatalities per 200,000 hours worked</i> | 121 | 132 | 165 |
| <i>Mine industry injuries per 200,000 hours worked</i> | 107 | 116 | 149 |
| <i>Percent of respirable coal dust samples exceeding the applicable standards for designated occupations</i> | 50 | 58 | 60 |
| <i>Percent of noise exposures above the citation level in coal mines</i> | 25 | 31 | 28 |
| <i>Percent of successful interventions of hazards that require annual sampling (metal and non-metal mines)</i> | - | - | - |
| <i>Percent of hazards that require periodic sampling for which there are successful interventions (metal and non-metal mines)</i> | - | - | - |
| Performance Goal 09-3C (Wage and Hour) Ensure workers receive the wages due them. | 221 | 227 | 232 |
| <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> | 123 | 123 | 126 |
| <i>Percent of prior violators who achieved and maintained FLSA compliance following a full FLSA investigation</i> | 30 | 30 | 31 |
| <i>Number of workers in low-wage industries for whom there is an agreement to pay or an agreement to remedy per 1,000 case hours</i> | 45 | 38 | 39 |
| <i>Number of wage determination data submission forms processed per 1000 hours</i> | 23 | 35 | 36 |
| <i>Average age (in months) of Davis-Bacon wage rates</i> | - | - | - |
| Performance Goal 09-3D (Federal Contractor Compliance) Federal contractors achieve equal opportunity workplaces. | 103 | 102 | 102 |
| <i>Discrimination rate for audited Federal contractors</i> | 72 | 71 | 72 |
| <i>Compliance rate for all other EEO requirements</i> | 31 | 31 | 31 |
| Performance Goal 09-3E (USERRA) Reduce employer-employee employment issues originating from service members' military obligations conflicting with their civilian employment. | 10 | 10 | 10 |
| <i>USERRA Progress Index (measures compliance and assistance performance)</i> | 10 | 10 | 10 |

³⁴ 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).

³⁵ *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies. Sums may not equal higher level totals due to rounding.

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



Performance Goal 09-3A (OSHA)

Indicators, Targets and Results

| *Indicator target reached (Y), improved (I), or not reached (N) **Estimated | | FY 2007 Goal Achieved | FY 2008 Goal Achieved | FY 2009 Goal Achieved |
|--|--------|-----------------------------|-----------------------------|-----------------------------|
| Days away from work, job restriction and job transfer (DART) per 100 workers | Target | 2.3 | 2.3 | 2.2 |
| | Result | 2.1 | 2.0** | 1.9** |
| | * | Y | Y | Y |
| Workplace fatalities per 100,000 workers (for sectors covered by the Occupational Safety and Health Act) | Target | 1.73 | 1.58 | 1.57 |
| | Result | 1.58 | 1.51 | 1.27** |
| | * | Y | Y | Y |
| Goal Net Cost (millions) | | \$547 | \$554 | \$556 |

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

Note: *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies. 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 efforts to 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 enforcement strategies and compliance assistance – 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 injury/illness and fatality rates to develop targeted national and local programs and to measure performance. OSHA creates fiscal year estimates from the published BLS Annual Survey of Occupational Injuries and Illnesses

OSHA conducts local special emphasis programs to reduce employee exposures to hazards at construction projects, including those funded by the Recovery Act. Specific interventions, including inspections, cover many employers at once and leverage OSHA's outreach and enforcement efforts. "The hazards associated with the construction industry are well recognized, especially on large projects involving highways, bridges, new building construction, and existing building renovation and demolition operations," said Charles E. Adkins, OSHA's regional administrator in Kansas City, MO. Photo credit: DOL/OSHA



(calendar year) for 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.

Recovery Act

With funds from the Recovery Act, OSHA was allocated 36 Full Time Equivalents in 2009 to protect worker safety and health through targeted enforcement activity. The agency established a target for 2009 of 525 additional federal inspections (above those funded through normal appropriations for enforcement activities). OSHA established Local Emphasis Programs for its Recovery Act work and, through the third quarter of 2009, had already surpassed its 2009 federal inspection goal by conducting 665 additional inspections.

OSHA is working with State partners to enhance their enforcement efforts. OSHA established a target of 500 inspections in 2009 for States receiving Recovery Act funds, and obligated \$1,525,489 for those activities. OSHA also obligated \$600,000 for construction data collection to enhance targeting of federal enforcement resources to construction sites with the highest injury and illness rates. For more information, see http://www.recovery.gov/?q=content%2Fprogram-plan&program_id=7636.

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 1.9 cases per 100 workers from last year’s rate of 2.0, and the fatality rate for sectors covered by the Occupational Safety and Health Act declined to 1.27 fatalities per 100,000 workers from the FY 2008 rate of 1.51.

| Indicator | * | What worked | What didn't work |
|---|---|---|---|
| Injury/Illness rate | Y | <ul style="list-style-type: none"> Increased use of National and Local Emphasis Programs in high-hazard areas reduced the injury and illness rate. | <ul style="list-style-type: none"> OSHA's ability to rapidly deploy new program or regulatory initiatives is limited due to an extensive review and concurrence process. |
| Fatality rate | Y | <ul style="list-style-type: none"> Increased use of National and Local Emphasis Programs in high-hazard areas reduced the fatality rate. | <ul style="list-style-type: none"> Educating hard-to-reach and non-English speaking workers about occupational safety and health is challenging. |
| Program Performance Improvement Plan | | | |
| <ul style="list-style-type: none"> In FY 2010, OSHA is hiring enforcement personnel that will help the agency adapt to changes in worker demographics. OSHA is developing better mechanisms to reduce fatalities in hard-to-reach and non-English speaking workers. Starting in 2011, OSHA will analyze data from the new OSHA Information System database to better understand where injuries and illnesses are occurring and to direct its resources to these areas. | | | |

*Target reached (Y), improved (I), or not reached (N)

Net costs of OSHA activities were virtually unchanged from FY 2008-2009.

In 2010, OSHA’s activities will contribute to the following outcome goals in support of the Department’s Strategic Vision of *Good Jobs for Everyone*:

- *Securing safe and healthy workplaces, particularly in high-risk industries; and*
- *Voice in the workplace.*

For 2010, OSHA is targeting reduction in the number of fatalities caused by the four leading types of workplace death – falls, electrocutions, being caught in or between an object, and being struck by an object.

Program Assessments, Evaluations and Audits

Findings and recommendations from an Occupational Safety and Health Administration assessment completed in 2007 prompted specific actions to improve performance. Here is a summary of progress in 2009:

- *Completing regulatory reforms identified in the 2005 Report to Congress on the Costs and Benefits of Federal Regulation.* OSHA completed eight of the ten reforms; two reforms are still in progress. The Flammable Liquids reform, part of the Standards Improvement Project, will require additional public comment on recommendations to replace several National Fire Protection Association consensus standards. The Hazard Communication Training guide was delayed by work on the Hazard Communication/Globally Harmonized System rulemaking that was published for public comment in September 2009. OSHA anticipates both reforms to be completed by September 2010.
- *Developing the OSHA Information System to improve data collection.* In 2009, the OSHA Information System Team addressed issues identified by the 2008 pilot. These areas include addressing reporting requirements, design fixes, wireframe development, data mapping, and some data cleansing. 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.* OSHA will pursue alternative approaches to establish a methodology for conducting studies of its various programmatic approaches. The agency has directed in-house staff resources to work on a Methylene Chloride Lookback Review and on a planned Bloodborne Pathogens Lookback Review.

More information is available at <http://www.whitehouse.gov/omb/expectmore/summary/10000336.2007.html>.

Independent evaluations and audits completed in 2009 are summarized below.

“Employers With Reported Fatalities Were Not Always Properly Identified and Inspected Under OSHA’s Enhanced Enforcement Program,” March 2009 (OIG)

Relevance: The OIG audit of OSHA’s Enhanced Enforcement Program (EEP) found that OSHA did not always properly identify employers for enhanced enforcement. When it did, OSHA did not always take proper action nor place the appropriate management emphasis on compliance, committing the necessary resources, and providing clear policy guidance.

Findings and Recommendations:

- The OIG recommended that OSHA form an EEP task force to improve program efficiency and effectiveness, revise the EEP directive, provide formal training on EEP requirements and application, incorporate enhanced settlement provisions, establish controls for reconciliation of the EEP log, and improve citation coding.

Actions:

- An EEP task force was created in April 2009.
- A revised directive was completed.
- Formal training on EEP requirements is expected in FY 2010.

Additional Information: The report (OIG 02-09-203-10-105) is available at <http://www.oig.dol.gov/public/reports/oa/2009/02-09-203-10-105.pdf>.

“OSHA’s Voluntary Protection Programs: Improved Oversight and Controls Would Better Ensure Program Quality,” May 2009 (GAO)

Relevance: GAO examined the Voluntary Protection Programs (VPP) and concluded that OSHA’s internal controls are not sufficient to ensure that only qualified worksites participate in the VPP. GAO also reported that the agency has not developed goals or measures to assess the performance of the program.

Findings and Recommendations:

- GAO recommended OSHA develop a documentation policy for information on actions taken by OSHA’s regions in response to fatalities and serious injuries at VPP sites, establish internal controls to ensure consistent compliance by its regions with VPP policies, and develop goals and performance measures for VPP.

Actions:

- OSHA issued instructions for documenting OSHA actions following a fatality at a VPP site.
- The agency issued new procedures for VPP onsite teams to review and verify injury and illness rates submitted with the participants’ annual self-evaluations.

Additional Information: The report (GAO-09-395) is available at <http://www.gao.gov/new.items/d09395.pdf>.

In 2008, as the result of an enforcement action initiated by the Office of the Solicitor, the Department achieved a significant OSHA settlement with Bath Iron Works, the Navy's shipbuilder and largest employer in Maine. This employer has been a recurrent subject of OSHA's site-specific targeting due to its high rate of musculoskeletal injuries. In the settlement agreement, Bath was issued numerous safety and health citations and paid a \$275,000 penalty. The settlement paved the way for resolution of an ergonomics citation asserting that shipbuilding employees who repeatedly perform grinding operations have been exposed to serious upper body musculoskeletal disorders. By ensuring that Bath addresses its chronic ergonomic issues, SOL is helping to ensure that the Department is achieving a safe and secure workplace for every American worker.

Data Quality and Top Management Challenges

Data quality for this performance goal is rated *Good*.³⁶ For the fatality goal, the agency relies on its Integrated Management Information System (IMIS) for fatality data and Bureau of Labor Statistics (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.

Improving program effectiveness and efficiency of the Enhanced Enforcement Program (EEP) and developing documentation policy, internal controls and goals and performance measures for the Voluntary Protection Programs (VPP) remain as challenges for the Department (see *Ensuring the Safety and Health of Workers*, which is one of the Top Management Challenges in the Other Accompanying Information section). One recent audit of OSHA's EEP found that OSHA did not always properly identify employers for enhanced enforcement, and when it did, it did not always take proper action nor place the appropriate management emphasis on compliance – committing the necessary resources, and providing clear policy guidance. In response, OSHA formed an EEP task force, is revising the EEP directive and will provide training on program requirements. In response to the GAO's recommendation that OSHA improve oversight and controls to better ensure program quality of the VPP, the agency developed a statement of executive action to establish actions and dates for challenges to be resolved.

³⁶ Information on DOL's Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.

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



Performance Goal 09-3B (MSHA)

Indicators, Targets and Results

| *Indicator target reached (Y), improved (I), or not reached (N) **Estimated | | FY 2007 Goal Sub- stantially Achieved | FY 2008 Goal Sub- stantially Achieved | FY 2009 Goal Achieved |
|--|--------|--|--|-----------------------------|
| Mine industry fatalities per 200,000 hours worked | Target | .0201 | .0191 | .0147 |
| | Result | .0200 | .0152 | .0141** |
| | * | Y | Y | Y |
| | Cost | \$121 | \$132 | \$165 |
| Mine industry injuries per 200,000 hours worked | Target | 2.82 | 3.41 | 3.09 |
| | Result | 3.50 | 3.27 | 2.97** |
| | * | I | Y | Y |
| | Cost | \$107 | \$116 | \$149 |
| Percent of respirable coal dust samples exceeding the applicable standards for designated occupations | Target | 9.0% | 11.5% | 9.55% |
| | Result | 12.20% | 9.74% | 7.75%** |
| | * | N | Y | Y |
| | Cost | \$50 | \$58 | \$60 |
| Percent of noise exposures above the citation level in coal mines | Target | 4.8% | 3.59% | 4.45% |
| | Result | 3.66% | 4.54% | 4.01%** |
| | * | Y | N | Y |
| | Cost | \$25 | \$31 | \$28 |
| Percent of successful interventions of hazards that require annual sampling (metal and non-metal mines) | Target | — | — | baseline |
| | Result | — | — | 11.63 |
| | * | — | — | — |
| | Cost | — | — | — |
| Percent of hazards that require periodic sampling for which there are successful interventions (metal and non-metal mines) | Target | — | — | baseline |
| | Result | — | — | 2.67 |
| | * | — | — | — |
| | Cost | — | — | — |
| Goal Net Cost (millions) | | \$356 | \$388 | \$403 |

Source(s): Mine operators' and non-exempt contractors' Mine Accident, Injury, and Employment reports and MSHA Standardized Information System.

Legacy Data: Some indicators not shown for FY 2004-08. 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 Goals 06-3.1A and 06-3.1B. In FY 2004-06, 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. Complete data for FY 2007-08 are in the FY 2008 report at <http://www.dol.gov/sec/media/reports/annual2008/SG3.htm>. See Performance Goal 08-3A.

Note: *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies.



On August 4, 2009, Secretary Solis visited with miners employed at the Patriot Coal's Federal No. 2 Mine located near Miracle Run, West Virginia. The mine employs nearly 500 miners. During her tour, the Secretary descended 700 feet down an elevator hoist and traveled two miles underground to see the inner workings of the mine, which was supplied with additional airtight emergency shelters and caches of oxygen self rescuers, as required by the MINER Act. "Whenever you turn on the light switch, people may not think that it may have come from the coal that was mined here in West Virginia;" said Secretary Solis. "I am out here to say that we stand by the workers, we stand by the good business men who make these investments to help be ahead of the challenge so we know that when miners come into a mine in the morning that they can come home at night – and that to me is the bottom line." Photo credit: DOL/ETA

Program Perspective and Logic

The Mine Safety and Health Administration (MSHA) enforces compliance with mandatory safety and health standards to reduce fatal accidents, nonfatal accidents, and health hazards and promotes improved safety and health conditions in the nation's mines. MSHA is divided into two major programs, coal mine safety and health and metal-nonmetal safety and health. MSHA protects 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).

The Mine Act requires that MSHA inspect each surface mine at least two times a year and each underground mine at least four times a year (seasonal or intermittent operations are inspected less frequently) to determine whether there is compliance with health and safety standards and whether an imminent danger exists. If violations of safety or health standards are found, inspectors will issue citations to the mine operators. MSHA also performs

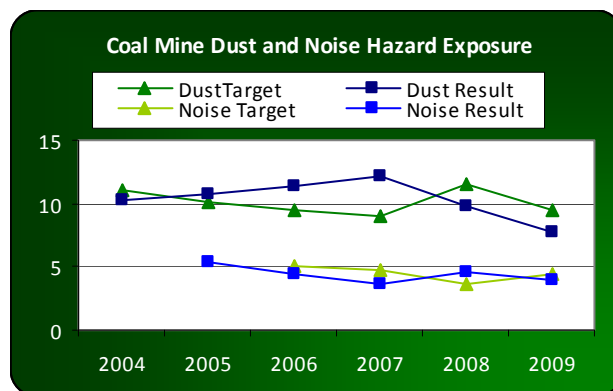
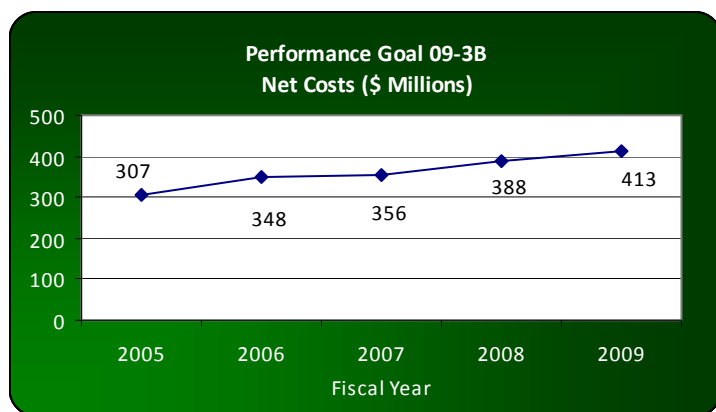
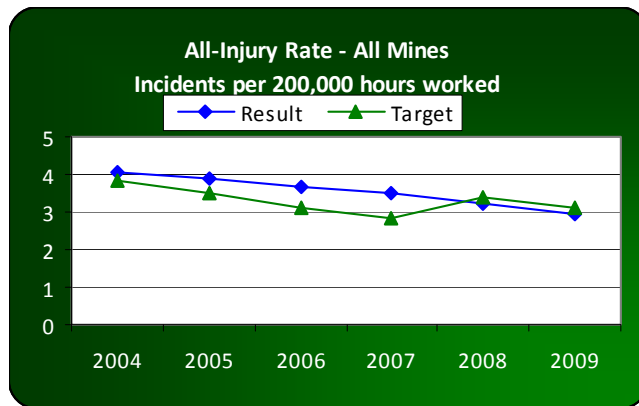
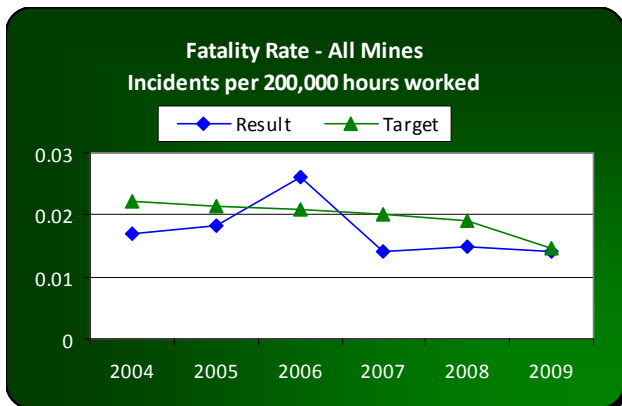
other important activities including, but not limited to, investigating mine accidents; developing safety and health standards; assessing and collecting civil monetary penalties for violations of mine safety and health standards; reviewing for approval mine operators' mining plans; maintaining the National Mine Health and Safety Academy to train inspectors; approving and certifying certain mining products; and, overseeing rescue and recovery operations.

The MINER Act of 2006 amended the Mine Safety and Health Act and contains a number of provisions to improve safety and health in America's mines, including: requiring MSHA to review and re-certify each mine's emergency response plan every six months; providing guidance to mines on wireless two-way communications and an electronic tracking system, permitting those on the surface to locate persons trapped underground; and requiring each mine to make available two experienced rescue teams capable of a one-hour response time.

MSHA uses the incidence rate – 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. The rate combines the number of miners' fatalities and injuries with their exposure to potential hazards (hours worked). The health indicators for this performance goal targets reductions to exposures to noise and dust in coal 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. During FY 2009, MSHA continued its integrated approach toward the prevention of mining accidents, injuries, and occupational illnesses. MSHA elevated enforcement efforts and increased inspector presence at mine sites. MSHA accomplished its goal of completing all required inspections at every mine in the country.

Analysis and Future Plans

MSHA achieved its FY 2009 performance goal by reaching all four indicator targets. In the coming years, MSHA plans to target the most common causes of fatal accidents and enhance enforcement to improve compliance with standards. To reduce health risks to miners, MSHA plans to greatly improve the effectiveness of its coal dust enforcement efforts by developing and implementing a comprehensive black lung strategy that will include rulemaking to reduce the coal dust permissible exposure level; education and training; enhanced enforcement; and increased surveillance of miner respiratory health.



Net costs of MSHA activities increased by four percent from FY 2008-2009 due to increased enforcement (number of inspections) and support activity.

| Indicator | * | What worked | What didn't work |
|---|---|--|---|
| Mine fatality rate | Y | <ul style="list-style-type: none"> an increase in inspector presence at many mines due to increased number of inspectors completion of all mandatory mine inspections (twice and four times annually for above ground and underground mines, respectively) | <ul style="list-style-type: none"> Mine operators failed to comply with MSHA standards that could have prevented many of the fatalities. |
| Mine injury rate | Y | <ul style="list-style-type: none"> Increased inspector onsite presence | |
| Dust hazard exposure | Y | <ul style="list-style-type: none"> Better quality dust control and ventilation plans | |
| Noise hazard exposure | Y | <ul style="list-style-type: none"> Increased inspector presence | |
| Program Performance Improvement Plan | | | |
| <ul style="list-style-type: none"> Implement a fatal accident reduction strategy aimed at eliminating the types of hazards that most frequently cause or contribute to the deaths of miners. Foster consistent compliance with the identified standards with aggressive enforcement by MSHA inspectors and specialists. In addition, MSHA will require that mine operators who have a pattern of violations implement safety and health management programs that targets the reduction of conditions which most frequently cause or contribute to fatal accidents. | | | |

- Implement a comprehensive black lung reduction strategy that includes rulemaking to lower the exposure limit for respirable coal mine dust. Initiate systematic review of the quality of dust control parameters stipulated in semi-annual mine ventilation and dust control plans, review coal mine operator respirable dust practices during regular inspections, and inspect coal mine operators' dust monitoring programs annually.
- Speed processing of miners' discrimination complaints and complete investigations of knowing and willful violations.

*Target reached (Y), improved (I), or not reached (N).

In 2010, MSHA's activities will contribute to the following outcome goals in support of the Department's Strategic Vision of *Good Jobs for Everyone*:

- *Securing safe and healthy workplaces, particularly in high-risk industries; and*
- *Voice in the workplace.*

Program Assessments, Evaluations and Audits

Findings and recommendations from a Mine Safety and Health Administration assessment completed in 2003 prompted specific actions to improve performance. Here is a summary of progress in FY 2009:

- *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 2009.
- *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.

More information is available at <http://www.whitehouse.gov/omb/expectmore/summary/10001101.2003.html>.

Independent evaluations and audits completed in FY 2009 are summarized below.

| "Complaints Received from The American Coal Company," January 2009 (OIG) | |
|--|---|
| Relevance: The workplace safety and health of our nation's workers depends on DOL's strong enforcement of these laws. | |
| Findings and Recommendations: | Actions: |
| <ul style="list-style-type: none"> • Issue a written policy for eliminating the current backlog of overdue coal mine plan reviews and maintaining timely reviews in the future. | <ul style="list-style-type: none"> • On June 2, 2009, MSHA implemented a written policy for eliminating backlogs of coal mine reviews and maintaining timely plan reviews. |
| Additional Information: The report (No. 05-09-002-06-001) is available at http://www.oig.dol.gov/public/reports/oa/2009/05-09-002-06-001.pdf . | |

Data Quality and Top Management Challenges

Data quality for this goal is rated *Very Good*.³⁷ The OIG and GAO pointed out the lack of data on contractor³⁸ 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.

³⁷ Information on DOL's Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.

³⁸ 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.

Top Management Challenges pending include the OIG finding that MSHA had to forgo other statutory responsibilities in order to complete 100 percent of the mandated mine inspections. The Administrator for Coal Mine Safety and Health issued a written plan to ensure timely coal mine reviews, which MSHA will implement in the coming year. MSHA has completed its pending Top Management Challenge to ensure the consistency and rigor of the process to review and approve roof control plans and re-evaluate roof control plans for all mines. MSHA published the revised Accountability Handbook and continues to strengthen the Office of Accountability.

Ensure workers receive the wages due them.



Performance Goal 09-3C (ESA)

Indicators, Targets and Results

| *Indicator target reached (Y), improved (I), or not reached (N) **Estimated | | FY 2004 Goal Achieved | FY 2005 Goal Achieved | FY 2006 Goal Achieved | FY 2007 Goal Not Achieved | FY 2008 Goal Not Achieved | FY 2009 Goal 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 | 275 |
| | Result | — | — | 293 | 271 | 272 | 290 |
| | * | — | — | Y | N | N | Y |
| | Cost | — | — | \$112 | \$123 | \$123 | \$126 |
| 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% | 63% |
| | Result | 71% | 72% | 76% | 66% | 56% | 66% |
| | * | N | Y | Y | N | N | Y |
| | Cost | — | — | \$27 | \$30 | \$30 | \$31 |
| Number of workers in low-wage industries for whom there is an agreement to pay or an agreement to remedy per 1,000 case hours | Target | — | — | — | 304 | 422 | 305 |
| | Result | — | — | — | 418 | 302 | 318 |
| | * | — | — | — | Y | N | Y |
| | Cost | — | — | \$39 | \$45 | \$38 | \$39 |
| Number of wage determination data submission forms processed per 1,000 hours | Target | baseline | 1,506 | 1,491 | 1,852 | 2,662 | 2,268 |
| | Result | 1,491 | 1,667 | 1,834 | 2,636 | 2,246 | 2,534 |
| | * | Y | Y | Y | Y | N | Y |
| | Cost | — | — | \$23 | \$23 | \$35 | \$36 |
| Average age (in months) of Davis-Bacon wage rates | Target | — | — | — | — | — | 93 |
| | Result | — | — | — | — | — | 41 |
| | * | — | — | — | — | — | Y |
| | Cost | — | — | — | — | — | — |
| Goal Net Cost (millions) | | — | \$214 | \$214 | \$221 | \$227 | \$232 |

Source(s): Wage and Hour Investigator Support and Reporting Database (WHISARD), statistically valid investigation-based compliance surveys, and Automated Survey Data System.

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: *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies.

Program Perspective and Logic

The 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 FY 2009 performance objectives were 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 – enforcement (complaint-driven and directed investigations), education and outreach, and partnerships. 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. Education and outreach activities promote voluntary compliance by employers. Partnerships leverage resources and broaden the program’s impact. 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 program efficiency for three 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 a positive effect on individual employers’ future compliance, and directed enforcement initiatives deter violations and boost industry-wide compliance. Efficient handling of complaint and directed investigations can serve to promote 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. While this measure reflects productivity related to a specific step in the wage determination process, it does not provide the public with an assessment of the currency or accuracy of the issued wage rates. For the fourth performance objective, WHD conducts an annual compliance survey of prior violators. These investigation-based compliance survey results are used to evaluate the agency’s impact on employer behavior and test the effectiveness of various regional strategies on long-term compliance.

Changes in the economy, including in employees’ and employers’ economic security, have an impact on compliance with laws enforced by WHD. Factors such as the tightening of credit markets, use of multiple levels of subcontracting, and greater use of contingent workers can contribute to employer non-compliance. Higher levels of unemployment are among the factors affecting enforcement outcomes. 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. WHD’s recovery



As part of the agency’s efforts to protect teens from hazardous working conditions, WHD conducted investigations in movie theaters throughout the country. Investigators found workers under 18 years old were routinely operating and loading trash compactors and paper balers in violation of the ban prohibiting these practices. Many of the youth were employed in theaters operated by American Multi-Cinema (AMC), which operates more than 350 movie theaters in 30 States. To resolve the current violations and prevent future violations, AMC agreed to pay over \$140,000 in fines, committed to in-house training and compliance monitoring, and produced a public service announcement on child labor restrictions for operating paper compactors. The announcement, “Work Safe Tip # 12: Talking Trash,” was shown in all AMC theaters, on all screens, before all movies for four weeks beginning on Labor Day weekend in 2008. An estimated 8 million people saw the notice warning that no one under 18 is permitted to operate a commercial trash compactor. Photo Credit: DOL/ESA

levels reflect its targeted enforcement strategy to conduct more resource intensive investigations to secure compliance on behalf of more workers.

Recovery Act

For FY 2009, the Recovery Act provided WHD an additional \$22.0 million and 116 FTE to update prevailing wage determinations and enforce the government contract acts' labor standards provisions. WHD's objective is to ensure that the greatest number of workers on Recovery Act projects receive the wages and benefits to which they are entitled under the law. Increased education and outreach is intended to minimize coverage disputes and explain compliance principles to Federal, State, and local contracting agency staff who have limited experience with the program.

To address concerns that existing prevailing wage determination did not accurately reflect prevalent practices and wage rates on weatherization work, WHD conducted a nation wide wage determination survey of weatherization construction. WHD is expediting highway construction wage surveys, reducing the backlog of building and heavy construction surveys, and taking inventory of other wage determination surveys to determine which are outdated and should be replaced. To strengthen enforcement, WHD promoted senior investigators to act as advisors to the field staff. Their primary focus will be to train district managers and identify investigators to work on investigative teams when there is a Recovery Act complaint on file or a targeted Recovery Act investigation has been planned.

WHD is reaching out to contractors and their associations, employees and their representatives, and local community groups to provide information on Davis-Bacon requirements and rights. Specific activities include issuing guidance, creating a Web page for Davis-Bacon Act and Service Contract Act labor standards, publishing a revised edition of the Prevailing Wage Resource Manual, and numerous conferences and educational events. For more information, see http://www.recovery.gov/?q=content/program-plan&program_id=7705.

Analysis and Future Plans

In FY 2009, WHD achieved its performance goal by reaching all performance targets. WHD reached its target for improving efficiency of assistance to workers in low-wage industries. WHD will continue refining its targeting strategies based on the findings of its program evaluations in low-wage industries. Strategies will emphasize compliance in the agricultural industry where violations of safety and health standards are more likely to occur and where younger workers are employed.

The number of workers assisted per 1,000 enforcement hours in complaint cases improved to 290 in FY 2009 from 272 in FY 2008. WHD attributes this increase in efficiency to two factors. The average number of hours to conclude an investigation leveled, while the percentage of workers receiving back wages increased from FY 2008. WHD also received more complaints in FY 2009 than in the two years prior. Despite this success, a focus on efficiency in responding to complaints has also contributed, in part, to the deficiencies noted in the Government Accountability Office's audit entitled *Wage and Hour Division Needs Improved Investigative Processes and Ability to Suspend Statute of Limitations to Better Protect Workers Against Wage Theft*. As a result, WHD's complaint investigation program will be more customer-service oriented with an aim of increasing the involvement of workers and community organizations in identifying and reporting alleged workplace violations and using new technologies to improve customer service, transparency, and openness.

This past year, WHD saw a reverse in the most recent downward trend of increasing recidivism rates. The overall level of compliance among prior violators increased by 10 percentage points from 56 percent in FY 2008 to 66 percent in FY 2009. WHD will implement strategies for deterring recidivist behavior among employers and for targeting worst violators in all program areas for which the agency has responsibility. WHD has established, as a high priority, a goal of increasing compliance among prior violators. WHD will evaluate its success in reducing recidivism in FY 2010 and FY 2011.

Wage determination efficiency also increased in FY 2009. WHD processed 2,534 forms per 1,000 hours in FY 2009 – a 13 percent increase over the FY 2008 result. WHD has made rapid progress in processing survey data submission forms more efficiently. With the demands for accurate and timely wage determinations fueled by Recovery Act funding, WHD is implementing revised Davis-Bacon wage survey processes to improve the quality and timeliness of wage determinations. Further shift of emphasis from form processing to reengineering other steps in the wage determination process will further improve the average age of the Davis-Bacon wage rates issued by the agency.

| Indicator | * | What worked | What didn't work |
|--|---|---|--|
| Complaint resolution rate | Y | <ul style="list-style-type: none"> WHD refined its investigator basic training programs in FY 2008 and 2009. The addition of a new training director and the refinement and standardization of investigator training has contributed to improved efficiencies. | <ul style="list-style-type: none"> While some efficiency improvements were realized, recent GAO audits have indicated that customer service and the quality of complaint case management has suffered as a result of the agency's concentration on efficiency at the expense of quality. |
| Compliance rate for prior violators | Y | <ul style="list-style-type: none"> WHD regional offices have made a concerted effort to apply various strategies toward ensuring future compliance of investigated employers including emphasizing the quality of the initial investigations. | <ul style="list-style-type: none"> Prior surveys largely captured violation cases from a period in which WHD was emphasizing quick resolution of complaint investigations. This emphasis on timeliness at the expense of quality may have resulted in lower compliance rates in FY 2007-2008. |
| Low-wage case efficiency | Y | <ul style="list-style-type: none"> WHD refined its investigator basic training programs in FY 2008 and 2009. The addition of a new training director and the refinement and standardization of investigator training has contributed to improved efficiencies. | <ul style="list-style-type: none"> While efficiency has improved, this indicator does not reflect compliance levels or improvements as a result of WHD's efforts in low-wage industries. The improvements in the indicator are too readily influenced by individual cases. |
| Wage determination efficiency | Y | <ul style="list-style-type: none"> WHD resolved data entry and review errors by retraining regional survey staff. | <ul style="list-style-type: none"> Improved procedures are not yet fully implemented. |
| Average age of Davis-Bacon wage rates | Y | <ul style="list-style-type: none"> Revised survey processes improved timeliness and helped improve frequency of determinations. | <ul style="list-style-type: none"> Improving other steps in the process will take more time. |
| Program Performance Improvement Plan | | | |
| <ul style="list-style-type: none"> Over the next year, WHD will transition from the three efficiency indicators to performance measures that reflect the agency's emphasis on quality-driven customer service and on its strategies to change compliance levels in high-risk industries that employ the most vulnerable workers. To this end, WHD will implement several customer service goals to promote improved responsiveness to complainants who seek WHD services and to increase the agency's visibility and accessibility among vulnerable worker populations. WHD customer service strategies will be designed to increase the benefits of filing a complaint with WHD when workers have been subject to an alleged violation—particularly in industries in which violations are high and complaints are low. In FY 2010, WHD will begin measuring compliance levels in industries and program areas by conducting baseline investigation-based compliance surveys. These surveys, in addition to providing measures of compliance, inform WHD on the likely causes of violative behavior and point to strategies for addressing high violation rates industry-wide. WHD will refine its investigation-based recidivism survey to more accurately assess employer behavior and to account for improvements in compliance that cannot be attributed to a WHD intervention. An independent evaluation of WHD enforcement efforts targeting recidivism will help WHD refine its strategies for securing long-term sustained compliance. WHD will also implement revised Davis-Bacon Act prevailing survey procedures in FY 2010 that will allow the agency to update wage determinations more timely. | | | |

*Target reached (Y), improved (I), or not reached (N)

Net costs of WHD activities increased by three percent from FY 2008-2009 due to increases in the FY 2009 funding level for WHD.

In 2010, WHD’s activities will contribute to the following outcome goals in support of the Department’s Strategic Vision of *Good Jobs for Everyone*:

- *Increasing workers’ incomes and narrowing wage and income inequality;*
- *Securing wages and overtime;*
- *Breaking down barriers to fair and diverse workplaces so that every worker’s contribution is respected;*
- *Providing workplace flexibility for family and personal care-giving;*
- *Helping workers who are in low-wage jobs or out of the labor market find a path into middle-class jobs;*
- *Voice in the workplace; and*
- *Helping middle-class families remain in the middle-class.*

Several significant developments will impact WHD’s operations in FY 2010. The first, a regulatory effort related to the Immigration and Nationality Act’s H-2A program will result in increased enforcement to ensure compliance with applicable labor standards statutes in the agricultural industry. The second development, the multi-billion dollar Federal investment in infrastructure construction, will result in increased resources to enforce applicable labor laws in the construction industry. The third development also relates to the Immigration and Nationality Act. Under a delegation of authority from the Department of Homeland Security, WHD will assume labor standards enforcement responsibility under the H-2B temporary guest-worker program. Under this program, employers are certified by the Department of Labor to employ foreign temporary non-immigrants in a number of low-skilled occupations.

Program Assessments, Evaluations and Audits

Findings and recommendations from a Wage and Hour Enforcement and Compliance Program assessment completed in 2006 prompted specific actions to improve performance. Here is a summary of progress in FY 2009:

- *Standardizing the organizational process for developing and monitoring strategic partnerships.* To increase the effectiveness of its compliance assistance partnership programs, WHD required all regional and local partnerships to capture and report their outputs related to their partnerships.
- *Reviewing and implementing recommendations of independent evaluations to improve program performance and efficiency.* WHD implemented the recommendations from an evaluation of the agency’s enforcement efforts in low-wage industries in its local planning. The recommendations outlined approaches for more effectively targeting FLSA violators in priority low-wage industries and ensuring that corresponding performance targets promote ambitious outcomes.

More information is at <http://www.whitehouse.gov/omb/expectmore/summary/10003908.2006.html>.

The Prevailing Wage Determination Program, which was assessed in 2003, made the following progress in FY 2009:

- *Modifying wage survey and outreach strategies to improve data collection processes.* WHD has implemented new survey procedures to improve the wage survey and data collection processes to reduce the average age of Davis-Bacon wage rates. 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 implemented 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.

For more information, see <http://www.whitehouse.gov/omb/expectmore/summary/10001099.2003.html>

Independent evaluations and audits completed in FY 2009 are summarized below.

| | |
|---|--|
| “Department of Labor: Wage and Hour Division Needs Improved Investigative Processes and Ability to Suspend Statute of Limitations to Better Protect Workers Against Wage Theft,” July 2009 (GAO) | |
| Relevance: In response to a congressional request, GAO examined WHD’s complaint and conciliation processes and policies. | |
| Findings and Recommendations: | Actions: |
| <ul style="list-style-type: none"> • Revise policies and processes to better ensure that relevant case | <ul style="list-style-type: none"> • WHD has revised the Field Operations |

| | |
|--|--|
| <p>information is recorded in WHD's database.</p> <ul style="list-style-type: none"> • Assess WHD's complaint intake and resolutions processes and revise them as appropriate. • Explore providing more automated research tools to WHD personnel that would allow them to identify key information used in investigating complaints such as bankruptcy filings. • Explore gaining access to information maintained by the Internal Revenue Service (IRS) and other agencies as needed through voluntary consent from business being investigated. • Monitor the extent to which new investigators and existing staff are able to handle the volume of wage theft complaints, and if not, what additional resources may be needed. | <p>Handbook (FOH) and will be retraining all staff on the agency's policies and procedures for entering all complaints into the Wage and Hour Investigator Support and Reporting Database (WHISARD).</p> <ul style="list-style-type: none"> • WHD has reintroduced customer service goals and measures in its annual performance plan. • WHD has begun pricing requirements for a variety of automated resource tools. • WHD is in the process of hiring 250 new investigators. |
| <p>Additional Information: The report (GAO-09-629) is available at http://www.gao.gov/products/GAO-09-629.</p> | |
| <p>"Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention," September 2009 (GAO)</p> | |
| <p>Relevance: In response to a congressional request, GAO examined the extent of misclassification of employees as independent contractors; actions DOL and IRS have taken to address misclassification, including the extent to which they collaborate with each other, States, and other agencies; and options that could help address misclassification.</p> | |
| <p>Findings and Recommendations:</p> <ul style="list-style-type: none"> • GAO found that by not regularly sharing information on cases involving misclassification, Federal and State agencies are losing opportunities to protect workers and to make the most effective use of their resources. • GAO recommended an increase in WHD's focus on misclassification of employees as independent contractors during targeted investigations, and that WHD and OSHA share information on cases involving misclassification to enhance efforts to protect workers and make the most effective use of resources. • To identify promising practices in addressing misclassification and use agency resources most effectively, GAO recommended that DOL and IRS establish an interagency effort with other Federal and State agencies. GAO also recommended that DOL and IRS collaborate to offer education and outreach to workers on classification rules and implications and related tax obligations. | <p>Actions:</p> <ul style="list-style-type: none"> • WHD will increase its focus on employee classification during targeted investigations, and is reexamining its training documents and the FOH to ensure that employee classification is addressed during all stages of an investigation. Also, WHD will focus on increasing compliance for workers in industries where misclassification is prevalent. • WHD and OSHA committed to exchanging information about cases involving misclassification. WHD and OSHA will work closely with State and other relevant agencies to enhance efforts to protect workers. • DOL and IRS are exploring opportunities to collaborate to prevent and respond to employee misclassification. |
| <p>Additional Information: The report (GAO-09-717) is available at http://www.gao.gov/cgi-bin/getrpt?GAO-09-717.</p> | |

Data Quality and Top Management Challenges

Data quality for this performance goal is rated *Very Good*.³⁹ 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. For data used to develop wage determinations, WHD implemented a time reporting process to ensure accurate and timely reporting. WHD tabulates and reviews the data monthly to ensure accuracy.

³⁹ 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 09-3D (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 Achieved | FY 2008 Goal Not Achieved | FY 2009 Goal Not Achieved |
|---|--------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|---------------------------------|---------------------------------|
| Discrimination rate for audited federal contractors | Target | 9% | 7% | 6% | 2% | 1% | 1% |
| | Result | 1% | 2% | 1.7% | 1% | 2% | 1.9% |
| | * | Y | Y | Y | Y | N | N |
| | Cost | — | — | \$68 | \$72 | \$71 | \$72 |
| Compliance rate for all other Equal Employment Opportunity (EEO) requirements | Target | 61% | 62% | 64% | 86% | 89% | 90% |
| | Result | 91% | 86% | 87.2% | 88% | 86% | 84.4% |
| | * | Y | Y | Y | Y | N | N |
| | Cost | — | — | \$29 | \$31 | \$31 | \$31 |
| Goal Net Cost (millions) | | — | \$99 | \$97 | \$103 | \$102 | \$102 |

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

Note: *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies.

Program Perspective and Logic

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

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 results. While these results reflect only the Federal contractors audited in one fiscal year, they do allow OFCCP to determine its progress in identifying and deterring discrimination among audited contractors.

Initiatives implemented in the last several years have enabled OFCCP to become a more effective and efficient civil rights enforcement agency. For example, enforcement efforts now focus on systemic discrimination or cases involving a significant number of workers or applicants subjected to discrimination. The Data Integrity Team Initiative has resulted in fewer hours spent researching contractor jurisdiction, improved case management, and increased resources for systemic discrimination cases. Finally, OFCCP's Compliance Assistance Program raises contractor awareness of equal employment opportunity obligations and encourages self-evaluations through one-on-one customer assistance, online tools and resources that teach contractors how to comply with Federal employment laws, regional and area offices' technical assistance seminars, Webinars, town hall meetings and partnership with the industry liaison groups.

Recovery Act

The OFCCP received \$7.2 million and 50 FTE through the Recovery Act. OFCCP is using this additional funding to evaluate the personnel practices of Federal contractors and subcontractors according to the following plan:

- Conduct compliance evaluations of construction contractors in receipt of Recovery Act funding and grants.
- Conduct compliance evaluations of supply and service contractors in receipt of Federal contracts through Recovery Act funding.
- Conduct a limited number of pre-award reviews of new supply and service contractors with contracts of \$10 million or more.
- Evaluate compensation practices of Recovery Act contractors.
- Recommend enforcement for contractors where discrimination is identified or access denied and conciliation efforts have failed.
- Schedule outreach events for first time contract recipients, current Federal contractors, and contracting officers to educate on EEO requirements.



The Good Faith Initiative for Veterans Employment (G-FIVE) program recognizes contractors' good faith efforts and best practices to employ and advance veterans. Standing before the OFCCP G-FIVE exhibit at the Veterans' Employment and Training Service (VETS) annual Salute to Veterans Program are James Pierce, Director of the Functional Affirmative Action Plan Unit, Armando Fernandez, Senior Equal Opportunity Specialist, and Terry Hankerson, Chief, Regulations Development & Evaluation Branch. Photo Credit: DOL/ESA

By the end of FY 2009:

- OFCCP reassigned or hired 44 of 50 FTEs, or 88 percent.
- OFCCP implemented an active Recovery Act Web page, which provides information to the general public and vested stakeholders.
- OFCCP participated in a joint OFCCP-WHD Prevailing Wage Recovery Act conference in July 2009 that included workshops for new federal contractors, construction contractors, and Federal contractor/procurement officers.
- Several Regional Offices hosted local Recovery Act forums and on September 9, 2009, OFCCP hosted its first National Recovery Act Forum in Washington, DC.

For more information, see http://www.recovery.gov/?q=content%2Fprogram-plan&program_id=7626.

Analysis and Future Plans

The performance goal for OFCCP was not achieved in FY 2009. OFCCP did not reach its target for reducing the discrimination rate among audited federal contractors. OFCCP also did not reach its target for increasing the compliance rate for all other equal employment opportunity requirements. This was due to fewer compliance evaluations closed against an increase in the number of cases where technical violations were found. During FY 2010, OFCCP plans to evaluate the methodology for scheduling federal contractors for compliance evaluations.

| Indicator | * | What worked | What didn't work |
|---------------------------|---|---|---|
| Discrimination rate | N | <ul style="list-style-type: none"> • Via routine compliance evaluations of scheduled Federal contractors, with the assistance of the SOL, OFCCP determined and resolved 77 systemic discrimination cases, benefiting more than 21,820 workers. | <ul style="list-style-type: none"> • OFCCP is finding more systemic cases and completing fewer compliance evaluations – which increases the discrimination rate. |
| Other EEO compliance rate | N | <ul style="list-style-type: none"> • In FY 2009, OFCCP increased its compliance assistance events by more than 20 percent above the number of events held in FY 2008. | <ul style="list-style-type: none"> • The number of completed compliance evaluations decreased while the number of cases where technical violations were found increased. |

Program Performance Improvement Plan

- Continue efforts to target likely violators and resolve findings of discrimination. OFCCP will also increase its compliance assistance efforts to educate and inform its contractor community. The outcome of these performance plans will support breaking down barriers to fair and diverse work places.

*Target reached (Y), improved (I), or not reached (N).

Net costs of OFCCP activities were virtually unchanged from FY 2008-2009.

In 2010, OFCCP's activities will contribute to the following outcome goals in support of the Department's Strategic Vision of *Good Jobs for Everyone*:

- *Increasing workers' incomes and narrowing wage and income inequality;*
- *Breaking down barriers to fair and diverse work places so that every worker's contribution is respected;*
- *Helping workers who are in low-wage jobs or out of the labor market find a path into middle-class jobs; and*
- *Voice in the workplace.*

Program Assessments, Evaluations and Audits

Findings and recommendations from an assessment completed in 2004 prompted specific actions to improve performance. Here is a summary of progress in FY 2009:

- *Exploring the development and implementation of new performance measures with challenging targets for all agency performance goals.* Commencing in FY 2010, OFCCP proposes that its performance indicators be revised to measure its success in detecting and resolving all discrimination, not just systemic. In addition, OFCCP will seek to measure its success in increasing the percentage of compliance evaluations where no violations are found. This measure will be tied to OFCCP's compliance assistance efforts. Finally, OFCCP will expand some of the data fields in its current Case Management System to assist in the measurement of its performance and accomplishments.
- *Continuing to modernize the agency's data collection system.* A Statement of Work for the new Federal Contract Compliance System has been submitted for funding in FY 2010. Upon approval of funding, OFCCP will begin the development stage of the new system in 2010 and have it fully operational by FY 2012.

More information is available at <http://www.whitehouse.gov/omb/expectmore/summary/10000332.2004.html>.

Data Quality and Top Management Challenges

Data quality for this performance goal remains Very Good.⁴⁰ OFCCP continues to explore its capability to support the develop and report on 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, issues related to programming capabilities and overall database system efficiency limit the extent to which further improvements and changes can be realized. A replacement system remains a top funding priority.

OFCCP maintains robust quality controls for its core data on systemic discrimination, case closures, and violations – the principal data reported in this report. The data are cross-checked at several organizational levels and used in evaluating manager performance. In addition, OFCCP's multi-divisional data integrity team audits the data system for data quality. Examples 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; and implementing 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.

⁴⁰ Information on DOL's Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.

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



Performance Goal 09-3E (VETS)

Indicators, Targets and Results

| *Indicator target reached (Y), improved (I), or not reached (N) | | FY 2006 Goal Achieved | FY 2007 Goal Achieved | FY 2008 Goal Not Achieved | FY 2009 Goal Not Achieved |
|--|--------|-----------------------------|-----------------------------|---------------------------------|---------------------------------|
| USERRA Progress Index (measures compliance and assistance performance) | Target | 105% | 101% | 115% | 110% |
| | Result | 108% | 113% | 106% | 99% |
| | * | Y | Y | N | N |
| Goal Net Cost (millions) | | \$11 | \$10 | \$10 | \$10 |

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

Note: *Net Cost* reflects the *full cost* of each program as assigned by DOL entities to the Department's outcome goals *less* any exchange revenue earned. *Full cost* consists of (a) both direct and indirect costs, and (b) the costs of identifiable supporting services provided by other segments within DOL and by other Federal agencies.

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, from providing compliance assistance to employers and protected individuals, to thoroughly investigating claims filed by individuals alleging that their USERRA rights have been violated, to referring claims that the agency is unable to resolve to the Department of Justice or the Office of the Special Counsel, as appropriate, for those agencies to consider whether to provide the claimant with legal representation regarding their claim.

In recent years, goal achievement has been measured using a comprehensive Progress Index that sought to assess, in a single measure, the agency's success in reducing violations and meritless claims through compliance assistance, and in investigating claims in a timely manner.⁴¹ As explained in the next section, VETS is conducting research on measures that will be clearer and more transparent. In the meantime, the index will be replaced by two timeliness measures.

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 years in this goal cycle. VETS' overall USERRA claims increased by eight percent in FY 2009 compared to FY 2008, continuing an upward trend after a 15 percent increase from FY 2007 to FY 2008. These increases were due in part to the sunset of a Congressionally-mandated demonstration program that shifted responsibility for

⁴¹ The index consolidates 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 (Reinstatement and Military Obligations Discrimination), 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.

roughly half of all Federal USERRA claims to the U.S. Office of Special Counsel from February 2005 through December 2007.

Compliance assistance efforts will continue to focus on National Guard and Reserve components, because they are the source of most USERRA claims. In FY 2008, for example, claims by National Guard and Reservists accounted for 83 percent of total claims. VETS expects this trend to continue and possibly increase due to continued use of the National Guard and Reserve in America's ongoing wars overseas.

VETS is committed to continuous improvement of its USERRA program, and toward that end conducted a rigorous independent process evaluation using the Lean Six Sigma method. The study, just completed at the end of September, yielded recommendations for improving effectiveness of USERRA services to veterans that will be reviewed in early FY 2010. Also in FY 2010, VETS will assess performance of this program by timeliness of investigations and referrals. Other outcome-oriented indicators will be added in FY 2011.

| Indicator | * | What worked | What didn't work |
|--|---|---|--|
| Progress Index | N | <ul style="list-style-type: none"> VETS' focus on expediting USERRA claims resulted in a 17 percent reduction in average case investigation time from FY 2008. | <ul style="list-style-type: none"> VETS experienced an increase in USERRA claims compared to the previous years in this goal cycle. This increase, in part, can be attributed to the continued deployment of National Guard and Reserve Forces, the largest source of most USERRA claims. |
| Program Performance Improvement Plan | | | |
| <ul style="list-style-type: none"> Independent process evaluation of VETS' USERRA program using the Lean Six Sigma method will provide recommendations to improve performance and metrics. VETS will use interim performance measures that target the timeliness of investigations and referrals. | | | |

*Target reached (Y), improved (I), or not reached (N)

Net costs of USERRA activities were virtually unchanged from FY 2008-2009.

In 2010, VETS's activities will contribute to the following outcome goals in support of the Department's Strategic Vision of *Good Jobs for Everyone*:

- *Increasing workers' incomes and narrowing wage and income inequality;*
- *Breaking down barriers to fair and diverse work places so that every worker's contribution is respected;*
- *Providing workplace flexibility for family and personal care-giving; and*
- *Helping middle-class families remain in the middle-class.*

Program Assessments, Evaluations and Audits

As indicated above, USERRA processes are undergoing evaluation in a study to be completed in December 2009.

Data Quality and Top Management Challenges

Data quality for this performance goal was rated *Good*.⁴² 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 and through the Lean Six Sigma evaluation referenced above. VETS has no DOL top management challenges.

⁴² Information on DOL's Data Quality Assessments, conducted annually for each performance goal, can be found in the Introduction to the Performance Section.