OWCP Annual Report to Congress FY 2011

Submitted to Congress 2013

U.S. Department of Labor
Office of Workers' Compensation Programs

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U.S. Department of Labor **Office of Workers' Compensation Programs**
Washington, D.C. 20210

THE HONORABLE PRESIDENT OF THE SENATE
THE HONORABLE SPEAKER OF THE HOUSE OF REPRESENTATIVES

I have enclosed the Department of Labor's annual report to Congress on the FY 2011 operations of the Office of Workers' Compensation Programs. The report covers administration of the Federal Employees' Compensation Act as required by Section 8152 of that Act, the Black Lung Benefits Act as required by Section 426(b) of that Act, the Longshore and Harbor Workers' Compensation Act (LHWCA) as required by Section 42 of that Act, and the Energy Employees Occupational Illness Compensation Program Act, for the period October 1, 2010, through September 30, 2011.

Separate enclosures contain reports on annual audits of the Longshore and Harbor Workers' Compensation Act Special Fund and the District of Columbia Workmen's Compensation Act Special Fund accounts as required by Section 44(j) of LHWCA.

This report both fulfills the requirements of the respective laws and provides a comprehensive source of information on the administration and operation of Federal workers' compensation programs.

Sincerely,

Gary A. Steinberg
Acting Director

Enclosures

Contents

DIRECTOR'S MESSAGE

Fiscal Year (FY) 2011 was another very successful year for the Office of Workers' Compensation Programs (OWCP). In the process of fulfilling its mission "*To protect the interests of workers who are injured or become ill on the job, their families and their employers by making timely, appropriate, and accurate decisions on claims, providing prompt payment of benefits and helping injured workers return to gainful work as early as is feasible*," the four OWCP programs met or exceeded 16 of the 19 priority performance targets that were established for the agency while providing assistance to over 335,000 individuals and their families with compensation and medical benefits totaling nearly $4.6 billion during the year.

The Federal Employees' Compensation (FEC) program closely worked with both OWCP management and DOL's Office of the Solicitor to issue new regulations, which had not been substantially revised since 1999. At the same time, we made substantial progress in FY 2011 in advancing statutory reform of the Federal Employees' Compensation Act, including ground-breaking reforms that will foster return-to-work outcomes, modernize program and systems operations, and establish greater benefit equity. The FEC program, in coordination with its Occupational Safety and Health Administration (OSHA) partner, was responsible for the successful attainment of the Protecting Our Workers and Ensuring Reemployment (POWER) initiative's first year, government-wide goals. Substantial headway also was made to fulfill FEC's responsibilities to support Executive Order 13548, to increase disability hiring in the Federal government, an initiative we share with DOL's Office of Disability Employment Policy, the Office of Personnel Management, the Equal Employment Opportunity Commission, and the White House. Both of FEC's wage-loss claims processing targets were exceeded for this year. In addition, and as a result of successfully working with injured employees and employing agencies to help employees recover from their injuries and return to work, lost production days for non-postal agencies was reduced 2.3 percent from 34.6 to 33.8 and the share of Federal employees with work-related injuries or illnesses coming under FEC's Disability Management program that were reemployed by non-Postal Federal agencies increased two percent to 91.6 percent.

While less than last year, the increase in case workloads created by Section 1556 of the Patient Protection and Affordable Care Act (ACA) continued for the Black Lung program in FY 2011. Despite this surge in work brought on by the passage of the ACA, the program sustained a high level of performance during the year by beating its targets for the average time needed to render a proposed decision by 12 days, besting the annual target by five percent. Over 90 percent of automatic miner-to-widow conversions were completed within 45 days, enabling the timely continuity of benefits due eligible survivors. The Black Lung program also successfully strengthened our ties with stakeholders through increased outreach programs by its national and district offices, particularly with black lung clinics and medical and diagnostic providers.

The Longshore program continued to achieve a high level of performance despite increasing workload demands, especially related to claims filed under the Defense Base Act (DBA). During FY 2011, Longshore exceeded three of their four Government Performance Results Act (GPRA) goals aimed at speeding initial claim processing and benefit delivery to injured workers. The sharing of DBA claims data and other important information among program stakeholders resulted in increased compliance with the law, and across the entire program the number of informal conferences, written recommendations, and compensation orders were at an all-time high. The Longshore program also delivered consistently superior customer service throughout the year, with 81 percent of its customers rating their experience with the program as "very satisfied".

During FY 2011, the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) program focused on increased communication, both internally and externally, and making available to its customers a variety

of expanded outreach activities. The EEOICPA program continued to provide coordinated information about the program to the public through its work with the Department of Energy and the National Institute for Occupational Safety and Health under the Joint Outreach Task Group. Among new services implemented for claimants, a web-based Claimant Status Page was launched which allows claimants access to limited claims information; a Web-Ex Video Conferencing System was introduced to allow EEOICPA program staff to conduct oral hearings on claims issues in "real time" to save both time and travel costs; and the expansion of the Site Exposure Matrices database continued, which assists claims examiners in determining the types of chemicals and toxic substances that existed at the DOE sites and eases the evidentiary burden on claimants and speeds the claims process. Over $1.2 billion in compensation and medical benefits were paid to over 7,200 employees or their survivors under Part B of the EEOICPA and to more than 4,200 employees or their survivors under Part E. In addition to these accomplishments, all three of the EEOICPA program's GPRA goals were again achieved. In just four years, processing time for Part B claims has dropped by 62 percent, from an average of 238 days in FY 2007 to an average of 91 days this year. For Part E claims, the decrease is 66 percent – from 293 days to 101. Also, 95 percent of the Part B and Part E final decisions were issued by the program's Final Adjudication Branch within the program's timeliness standards, in excess of the 92 percent goal.

The performance goals and the many accomplishments achieved by each of our four programs during FY 2011is directly attributable to the expertise and creative and innovative efforts of the entire OWCP staff. The successful operation of a workers' compensation program as diverse and complex as OWCP requires a dedicated staff such as ours, one with an unwavering commitment to provide the highest quality of services that is deserved by claimants, their families, and the stakeholder communities we serve. OWCP continues to show that it is a program ready to achieve its current mission as well as accepting the future challenges that are ahead.

Gary A. Steinberg
Acting Director, Office of Workers'
Compensation Programs

FEDERAL EMPLOYEES' COMPENSATION ACT

Introduction

In 1916, President Wilson signed the first comprehensive law protecting Federal workers from the effects of work injuries. Amended several times, the Federal Employees' Compensation Act (FECA) now provides workers' compensation coverage to approximately 2.8 million Federal workers. The FECA also provides coverage to Peace Corps and VISTA volunteers, Federal petit and grand jurors, volunteer members of the Civil Air Patrol, Reserve Officer Training Corps Cadets, Job Corps, Youth Conservation Corps enrollees, and non-Federal law enforcement officers when injured under certain circumstances involving crimes against the United States.

For 95 years, the Federal Employees' Compensation (FEC) program has continuously evolved to meet its commitment to high quality service to employees and Federal agencies, while minimizing the human, social and financial costs of work-related injuries.

Benefits and Services

The primary goal of the FEC program is to assist Federal employees who have sustained work-related injuries or disease by providing financial and medical benefits as well as help in returning to work. FECA benefits include payment for all reasonable and necessary medical treatment for work-related injury or disease. In timely-filed traumatic injury claims, the FECA requires the employer to continue the injured worker's regular pay during the first 45 calendar days of disability. If the disability continues after 45 calendar days, or in cases of occupational disease, the FEC program will make payments to replace lost income. Compensation for wage loss is paid at two-thirds of the employee's salary if there are no dependents, or three-fourths if there is at least one dependent. The FECA provides a monetary award to injured workers for permanent impairment of limbs and other parts of the body and provides benefits to survivors in the event of work-related death. Training and job placement assistance is available to help injured workers return to gainful employment.

In Fiscal Year (FY) 2011, the FEC program provided nearly 251,000 workers and survivors almost $3.0 billion in benefits for work-related injuries, illnesses, or deaths. Of these benefit payments, more than $1.9 billion were for wage-loss compensation, $913 million for medical and rehabilitation services, and $139 million for death benefit payments to surviving dependents.

The FECA is the exclusive remedy by which Federal employees may obtain disability, medical, and/or survivor benefits from the Federal government for workplace injuries. Decisions for or against the payment of benefits may be appealed to the Employees' Compensation Appeals Board (ECAB), an independent body in the Department of Labor (DOL). Program activities are carried out in the 12 program district offices around the country.

Funding

Benefits are paid from the Employees' Compensation Fund. Agencies are billed each August for benefits paid for their employees from the Fund, and most agencies, other than the U.S. Postal Service (USPS) and non-appropriated

fund agencies, include those chargeback costs in their next annual appropriation request to Congress. Remittances to the Fund are not made until the first month of the subsequent fiscal year (or later, when an agency's full-year appropriation is enacted after the subsequent fiscal year begins). The annual DOL appropriation makes up any difference between prior year remittances and current year need, which is affected by Federal wage increases and inflation in medical costs.

Expenses for a small number of cases are not charged back to employing agencies, but also are covered by the DOL appropriation. For FY 2011, these non-chargeback expenses were approximately $73.9 million. Non-chargeable costs are attributable to injuries that occurred before December 1, 1960, when the chargeback system was enacted, to employees of agencies that are no longer in existence, or to injuries which have FECA coverage under various "Fringe Acts" such as the Contract Marine Observers Act, Law Enforcement Officers Act, and the War Hazards Compensation Act (WHCA). War Hazards payouts were $41 million in FY 2011, significantly higher than in FY 2006 when payouts were only $2 million. The higher costs reflect the increased involvement of contractor staff in Iraq and Afghanistan, which has resulted in a growing volume of claims under the Defense Base Act, leading to reimbursement requests under the WHCA for injuries and deaths caused by hostile action.

For FY 2011, administrative expenditures for the FEC program totaled $167.5 million. Of this amount, $153.6 million, approximately 4.9 percent of total program costs, were direct appropriations to the DOL's Office of Workers' Compensation Programs (OWCP), including $98.2 million in salaries and expenses and $55.4 million in "fair share" expenditures out of the FECA Special Benefits account. These latter funds are specifically earmarked for OWCP capital investments for the development and operation of automated data management and operations support systems, periodic roll case management, and benefit oversight. Another $13.9 million are separately appropriated to the Department for legal, investigative, and other support from the ECAB, Office of the Solicitor, the Office of the Inspector General, and the U.S. Treasury.

Agency High Priority Goal

To address the reemployment of workers who suffer severe injuries and those with permanent disabilities, DFEC jointly leads, with OSHA, an Agency High Priority Goal to develop the Federal government as a Model Return-to-Work Program. The effort is to improve return to work after injury and better accommodation of those with disabilities in the Federal workplace. Two Executive-level initiatives are providing government-wide authority to support this objective.

Executive Order 13548 of July 26, 2010, directs Federal agencies to make special efforts to recruit and hire workers with disabilities and to ensure the retention of those who are injured on the job. Under the Executive Order, agencies are to work to improve, expand, and increase successful return-to-work outcomes by increasing the availability of job accommodations and light or limited duty jobs, and removing disincentives for FECA claimants to return to work.

In July 2010, President Barack Obama announced a new four-year initiative (FY 2011-FY 2014) – Protecting Our Workers and Ensuring Reemployment (POWER). The POWER initiative calls on Federal agencies to establish ambitious but reachable goals aimed at minimizing the impact of workplace injuries. POWER builds on the accomplishments and outreach of prior safety, health and return-to-work initiatives and tasks agencies with the additional objectives of analyzing data, timely filing wage-loss claims, and returning seriously injured employees to the Federal workplace.

The seven POWER goals are:

- Reducing total injury and illness case rates.
- Reducing lost time injury and illness case rates.

- Analyzing lost time injury and illness data.
- Increasing the timely filing of workers' compensation notices of injury.
- Increasing the timely filing of wage-loss claims.
- Reducing lost production day rates.
- Speeding employees' return to work in cases of serious injury or illness.

Protecting Our Workers and Ensuring Reemployment Initiative

Of the seven government-wide performance goals established by POWER, DFEC is responsible for four. In FY 2011, the government-wide targets were:

- Increase the percent of Notices of Injury filed by Federal employers within 14 days to 81 percent.
- Increase the percent of Wage-Loss Claims filed by Federal employers within 7 days to 60 percent.
- Reduce agency Lost Production Day Rates (per 100 employees) to 35.4 days.
- Increase the percent of FECA Disability Management Cases returned to work within two years to 86.7 percent.

Timely Submission of Notices of Injury and Wage-Loss Claims. The ability of DFEC to promptly initiate intervention and return-to-work services is improved if Federal employers are timely in the submission of injury reports and wage-loss claims. Earlier receipt of these forms also enables DFEC to begin claims adjudication and payment processing sooner. For these reasons, POWER includes two additional goals to improve timely submission. In FY 2011, Federal agencies filed 83.4 percent of Notices of Injury within 14 days. Agencies also filed 68.5 percent of wage-loss claims within 7 days. Both results exceeded the established targets. Fourteen agencies are using Electronic Data Interchange (EDI) systems to report injuries electronically. Most of these agencies made immediate significant gains in timeliness subsequent to adoption of EDI. To expand electronic filing capability to all agencies, DFEC is developing a web-based capability (ECOMP) that will extend the electronic submission capability to all employing agencies and further cut the time of delivery.

Reduce Government-Wide Lost Production Day (LPD) Rates. Under POWER, individual Executive Branch agencies are directed to reduce LPD rates (per 100 employees) by one percent per year through FY 2014. In FY 2011, the government-wide average LPD rate was reduced to 33.8 days. In FY 2010, the result had been 34.6 days. To support achievement of POWER's four-year LPD goals, DFEC established the POWER Return-to-Work (RTW) Council, with the 14 largest Federal agencies as a forum to review performance results, share best practices, and set individual agency goals that will improve results.

Increase the Share of Federal Employees that Return to Work Within Two Years of Entering FECA's Disability Management Program. POWER's four-year target is to increase the overall share of cases that are returned to work by the 14 largest Executive Branch agencies to 92 percent within two years of the cases' start of management by DFEC. In FY 2011, 91.6 percent of the injured workers had been returned to work within two years, an increase from the FY 2010 result of 89.7 percent. OWCP, along with DOL's Office of Disability Employment Policy (ODEP) is conducting a study in FY 2012 to identify disability hiring best practices used by Federal agencies and document the obstacles that restrict agency return-to-work efforts. Findings will be shared through the POWER RTW Council and more directly with agency workers' compensation and human resources staff in a strengthened

OWCP/ODEP technical assistance program. The feasibility of implementing best practice approaches or mitigating job placement obstacles will be tested as DFEC works with individual agencies on implementation.

Achievement of these goals in FY 2011 was due to a combination of earlier identification and delivery of services to new injury cases, Disability Management process and coordination improvements, and effective use of the POWER initiative to focus Federal agencies on performance results.

In support of the POWER initiative, OWCP established the POWER Return to Work Council to serve as a forum for discussion and exchange of best practices in the area of return to work; to review the results of analytical studies on return to work and promote sharing and implementation of best practices identified; and, to form a bridge between the workers' compensation and disability hiring personnel and establish a community of practice for the sharing of information, ideas and experiences.

The Council is composed of representatives of the 14 agencies subject to the return-to-work goal of the POWER initiative, as well as representatives from DOL's Office of Disability Employment Policy, OSHA's Office of Federal Agency Programs and the Office of Personnel Management. The Council's charter was finalized at the inaugural meeting on September 21, 2011. The second quarterly meeting, held on December 14, 2011, concentrated on OWCP's efforts to assist agencies in bringing injured workers back into the Federal government and featured a presentation from the Director of the Department of Defense's Computer/Electronic Accommodations Program.

The POWER Council also works in support of Executive Order 13548 on increasing the Federal employment of individuals with disabilities. The reemployment of injured workers in the Federal government is cited in this document and the Secretary of Labor is tasked with proposing specific outcome measures and targets by which each agency's progress is assessed. The goals of the POWER initiative and the Council address this directive. Major implementing strategies include establishing performance targets and providing support to Federal agencies to improve reemployment and retention of injured workers. OWCP is collaborating with the Director of the Office of Personnel Management and DOL's (ODEP) to pursue innovative reemployment strategies and craft and advance policies, procedures, and structures that foster improved return to work.

Case Adjudication and Management

Approximately 121,000 new injury and illness claims were filed under FECA in FY 2011. Eighty-seven percent were for traumatic injuries, such as those caused by slips and falls. The rest were for medical conditions arising out of long-term exposure, repeated stress or strain, or other continuing conditions of the work environment. The program has established varying standards for the prompt adjudication of these claims, depending on the relative complexity of the case, and has met those standards in a high percentage of cases. For traumatic injury claims, 97.4 percent were adjudicated within 45 days of the day OWCP received notice of the injury. In FY 2011, the FEC program also achieved a high rate of timeliness in deciding non-traumatic injury claims despite the complexities involved. For "basic" occupational disease cases with an uncomplicated fact pattern, 94.9 percent were adjudicated within 90 days. Of the more complex non-traumatic cases, 88.1 percent were adjudicated within 180 days.

The FEC program has reduced time loss in new injury cases under its Quality Case Management (QCM) program since FY 1996. Under QCM every injury case with a wage-loss claim filed and no return-to-work date is reviewed for assignment to an early intervention nurse contracted by the FEC program. As soon after the injury as practicable, the nurse meets with the injured worker and serves as the human face of OWCP. Coordinating medical care and return-to-work issues, the nurse not only works with the injured employee but also the attending physician and the employing agency. If it seems that the injured worker will not return to work soon, the nurse coordinates the transfer of the case for vocational rehabilitation services and/or more aggressive medical intervention.

In FY 2011, 8,081 injured Federal employees returned to work as a result of early nurse intervention. Additionally, vocational rehabilitation counselors arranged training, when necessary, and successfully placed 103 injured workers

into non-Federal employment, plus another 385 with previous or new Federal employers. In the past few years, the government-wide average length of disability in QCM cases (lost production days within the first year from the date FECA wage-loss began) has risen due to an increase in USPS cases in QCM and the Postal Service's reduced capacity to offer or maintain return-to-work opportunities. Whereas average LPD in QCM cases was 142 days in FY 2009, average LPD was 173 days in FY 2011.

The FEC program continued to dedicate resources to the thorough review of long-term disability cases. As part of that review, Periodic Roll Management (PRM) staff arranges second opinion medical examinations to reassess changes in medical condition and fitness for work and recommends referral to vocational rehabilitation and placement assistance with a goal of reemploying injured workers. Of the cases that were screened in FY 2011, the disability in 1,080 cases had either resolved or lessened to the point that return to work was possible. Adjustment or termination of benefits resulting from the changes in these cases produced $14.2 million in first year compensation benefit savings.

Services to Claimants and Beneficiaries

Quality customer service and customer satisfaction are key components of DFEC's mission and "Pledge to Our Customers." Over 1.6 million calls were received by the DFEC district offices during FY 2011, many of which were handled by Customer Service Representatives (CSRs) in the 12 district offices. Since 2006, average caller wait times have been reduced by over 20 percent; turnaround time to caller inquiries has been reduced by more than 70 percent; and response effectiveness has improved by nearly 140 percent. During FY 2011, calls were connected in an average of less than one minute, well below DFEC's service standard of three minutes. The average wait and response times for callers were below the established targets, and 82 percent of calls were answered on the same day that they were received.

DFEC deployed a new Voice-Over Internet Protocol telephone system in FY 2011. The system replaced antiquated hardware with feature-rich hardware and supporting software. Simultaneously, a self-help call system was devised which allows users to get real time information about a workers' compensation claim without having to await a call back from claims staff. This automated self-help system is available 24 hours per day. The new system interfaces with the iFECS system, thereby allowing DFEC to automatically capture all telephone messages left for claims staff and associate these calls with a specific case.

The new system also allows for much greater flexibility in monitoring calls handled by CSRs. To help ensure quality and to identify areas where additional CSR training is needed, silent monitoring of calls to the district office phone banks continued during the fiscal year. Communications Specialists on DFEC's staff listen to both sides of a conversation and, using a standardized Quality Monitoring scorecard, document the CSRs' performance. The results of quality silent monitoring coupled with local telephone survey results show that 99 percent of callers received courteous service in FY 2011. The use of clear and understandable language was reported in 99 percent of calls, and 98.1 percent of calls met knowledge and accuracy standards. The goal of 95 percent was exceeded in each of these quality categories.

Across the 12 district offices, more than 67,000 written responses to routine inquiries were provided and 93 percent were sent within 30 days. In addition, 4,600 written priority inquiries were received and 95 percent of them were answered within 14 days. The office exceeded its goal of 90 percent for timely responses to written correspondence. Over 6,000 pieces of written correspondence were sampled in FY 2011. One-hundred percent of them met the standards for courtesy, 99 percent of them were written in clear and understandable language, and 96 percent met knowledge and accuracy standards. The goal of 95 percent was exceeded in all three of these quality categories.

Hearings and Review

Individuals who disagree with an Office formal decision on a claim may exercise their appeal rights by requesting an oral hearing or a review of the written record from the Branch of Hearings and Review. In FY 2011, the Branch received a total of 6,739 incoming requests for reviews of the written record and oral hearings and issued a total of 6,991 decisions.

In FY 2011, customer service and turnaround times remained constant for all of the measured areas. The Branch exceeded all established program goals in the three measured categories. The period of time between receipt of an appealed case file and the issuance of a remand or reversal before a hearing in FY 2011 was 55 days. In cases where claimants requested oral hearings, the time period between receipt of an appealed case file and the issuance of decision for FY 2011 was 168 days. For appeals initiated from a review of the written record, the time period for issuance of a decision was 81 days in FY 2011.

In the interest of improving appeal processing times and efficiency, the Branch continued to handle hearing requests originating in geographical areas less traveled via telephone hearings; 1,022 telephone hearings were conducted in FY 2011. The Branch also continued to conduct proceedings via videoconferencing, increasing productivity associated with hearings. For FY 2011, the Branch conducted 728 hearings via teleconferencing. About 17 percent of the approximately 4,000 hearings scheduled during FY 2011 were actually held in person. The use of telephone and video hearings resulted in a speedier appellate process for FECA stakeholders and significant cost savings for the FEC program.

iFECS

DFEC continues to build on its sophisticated IT claims processing support system: the integrated Federal Employees' Compensation System (iFECS). In FY 2011, DFEC implemented two components of its major modernization initiative, and completed the design and development phase of the remaining component. This modernization initiative consisted of three distinct areas of functionality: an Integrated Voice Response (IVR) system; consolidation of district office scanning and data entry functions (3CI); and a web portal system for processing forms and submitting documents (ECOMP).

IVR Improvements and VOIP Phone System. In January of 2011, DFEC implemented the new IVR system in the first district office. The new system automates the process of providing self service data to every caller via an expanded menu of self help options. Through this significant enhancement of access to case data via telephony, the CA-110 (DFEC call record form) is automatically generated upon the completion of a call. This allows the program to maintain better control of incoming requests for information, and thereby assists with better management of prompt and comprehensive responsiveness to customers and stakeholders. The system provides monitoring and reporting capabilities for tracking workforce performance and supporting workload projections. The system employs a Voice Over Internet Protocol (VOIP) phone system that leverages the enterprise system with the Wage and Hour Division of DOL, and as a result reduces toll calls, relieving this cost burden from customers and stakeholders. The system was deployed to all DFEC district offices, and all district office staff (over 600 users) was trained within a six month period. The IVR system improved and enhanced telephonic access to FECA data for claimants and employing agencies and provides the DFEC staff with the telephonic tools needed to make telework possible for the majority of its workforce.

Centralization of Case-Create/Imaging (3CI). On average, approximately 11,000 new cases are created for DFEC claimants each month, and all documents submitted with these claim forms are imaged into iFECS. DFEC identified a potential for significant cost savings through the centralization of these case-create functions, which had been previously carried out in each of the 12 DFEC district offices.

DFEC launched the central case create facility in late FY 2011. New claims for injury and illness, as well as compensation claims, are now submitted to and created by a central case create system run across two facilities. All claims for workplace injury and illness as well as attendant claims for wage-loss compensation are now processed via one address and fax number. The process of moving 12 case create and data entry operations to two facilities was complex and involved the realignment of personnel, the development of new IT processes, the creation of two new processing sites (in Jacksonville and Kansas City), and outreach and support to external stakeholders impacted by this change – namely injured Federal workers and their employing agencies. In addition to being centralized to one mailing address and fax number, the IT work flow for creating the forms once they have been submitted has been vastly improved through reengineering and automation. Claim forms which are faxed are no longer manually scanned; instead the images automatically appear in a fax processor which is linked with FEC's case management system. This greatly reduces the labor costs associated with scanning documents received via fax. The centralization of case-create functions also allow for greater management oversight, leading to more consistent and accurate creation of claims.

Centralized case create provides DFEC with the tools and processes to create claims faster, more consistently, and with a greater degree of accuracy, thus providing superior customer service to all stakeholders. The quicker creation of claims allows injured workers to receive the benefits to which they are entitled in a more timely fashion. It also allows DFEC to identify and manage disability earlier.

Web Portal Forms Processing and Document Submission (ECOMP). For the ECOMP project, DFEC is designing a web-based portal for the entire Federal government, which will supplement the EDI-based system currently available to only a few employing agencies, and provide electronic submission of claims-related documents. The first component of ECOMP that will be available is the Web Enabled Electronic Document Submission feature. This will provide claimants, employers and medical providers the ability to electronically upload and submit documents to DFEC through its secure web portal. This ability to instantaneously communicate and submit documents to DFEC claims staff instead of mailing or faxing documents will save DFEC the processing fees that are currently associated with scanning mail into the case file system. Stakeholders will save on postage fees, and DFEC and stakeholders alike will enjoy a more expeditious exchange of information while still maintaining the security of personal information.

The remaining features of ECOMP will also enable all enrolled Federal employers and claimants to "e-file" DFEC forms and OSHA data at minimal costs to the agencies. ECOMP will utilize a web-based system that allows for the digital filing of compensation claims by Federal employees and will provide injured workers with a simple, convenient, and intuitive web-based system to file claim forms. Supervisors and agency reviewers will have the tools to route, review and track claim forms as they are being processed. The system supports Section 508 compliance (accessibility integration for users with disabilities) and allows users to manage and respond to their claims during the claim processes in a safe and secure manner. The system also employs a sophisticated workflow process that can be edited and managed by the client agencies in order to deal with potential future requirement changes (such as department and personnel changes). Design for these remaining features is nearly complete and a controlled rollout is planned for early FY 2012.

Central Medical Bill Processing

OWCP's medical bill processing service continued to achieve improvements in operating efficiencies. During FY 2011, DFEC avoided $67 million in additional costs due to further improvements in the editing of bills, which in turn reduced costs charged back to agencies without increasing costs to claimants.

Timely and accurate medical bill processing is a critical element in administration of the FECA. In FY 2011, the bill processing system was enhanced to include a Schedule II Drug program and an Anesthesia Fee Schedule. The Schedule II Drug program limits the use of narcotics that are used only for patients with end staged cancer pain.

In FY 2011, the medical bill processing vendor processed 5.1 million bills and handled 654,334 telephone calls, meeting FECA communication goals. Authorizations for treatment were processed in an average of 2 work days and 99.9 percent of bills were processed in 28 days. Enrollment of 15,347 new providers brought the total of enrolled providers to 215,164.

Regulatory and Legislative Reform

The FECA regulations were last substantially revised in 1999 and were in need of updating. A Notice of Proposed Rulemaking was published in the Federal Register on August 13, 2010, and the comment period closed on October 12, 2010. After review of all comments submitted, the Final Rule was published on June 28, 2011, effective as of August 29, 2011. Even though this most recent update was not a wholesale revision of the existing regulations, consistent with past practice, the entire regulation was republished for ease of use by customers and stakeholders.

The new regulations reflected updates in the organizational description to reflect the Department of Labor reorganization that eliminated the Employment Standards Administration and transformed OWCP into a stand-alone organization reporting directly to the Office of the Secretary. The FECA regulations were revised to reflect statutory and technological changes and to promote fairness and greater efficiency in the claims process. The Final Rule added the skin as an organ for which a schedule award (a FECA benefit for loss/loss of use of specified organs) is available. This schedule benefit is now available for any FECA covered skin injury sustained on or after September 11, 2001, that results in permanent impairment, thus allowing awards for employees such as those who sustained permanent impairment due to severe burns in the September 11 attacks and in war zones. This schedule award provision was an outgrowth of OWCP's inter-agency discussions with the Office of Personnel Management and the Departments of Defense and State concerning benefits for Federal employees deployed to war zones. The new regulations provide OWCP explicit authority to contract with specific providers to provide services and appliances to improve service and contain costs. OWCP also used existing legislative authority to create a new regulatory special schedule to provide more equitable benefits for non-citizen non-resident employees of the United States. Other updates included clarifications on recurrence of disability, loss of wage earning capacity and representative fee approvals.

As proposed in the President's Budget, DFEC also continues to pursue changes to the FECA that would strengthen the program by enhancing incentives for injured employees to return to work; address retirement equity issues; improve administration; and update and improve benefit payments in certain circumstances. Specifically, the DOL reform proposal includes:

- Converting compensation for new injuries or new claims for disability to a lower benefit at the Social Security retirement age.
- Moving the 3-day waiting period during which an injured worker is not entitled to compensation to the point immediately after an injury.
- Paying schedule awards at a uniform rate concurrent with wage-loss payments.
- Eliminating augmented compensation and raising the basic benefit level for all claimants to 70 percent.
- Allowing OWCP to recover the costs paid by responsible third parties to FECA beneficiaries during the continuation of pay period.
- Increasing outdated funeral expenses from $1,000 to $6,000.
- Increasing benefit levels for facial disfigurement resulting from work injury.

- Identifying unreported earnings and retirement benefits through regular data base matching with the Social Security Administration.

- Creating a return-to-work plan for an employee where appropriate.

- Extending the continuation of pay period to 135 days for employees injured in a Zone of Armed Conflict.

During FY 2011, a number of bills in both the House of Representatives and the Senate also have proposed changes to the FECA and have incorporated various portions of the DOL proposal.

Program Evaluations and Studies

Independent Impact Evaluation of FECA Disability Management. In March 2011, DFEC received the final report of an impact evaluation of FECA Disability Management (DM) by SRA International, Inc. The impact evaluation consisted of on-site interviews and observations, and surveys of DFEC claims staff, as well as surveys of employing agency workers' compensation staff and injured workers – all principal stakeholders involved with FECA Disability Management. The study was a third in a series conducted by SRA of DFEC's Early Intervention and Disability Management activities.

The first recommendation centered on incorporating early intervention and team claim handling into FEC program's procedures. Specific recommendations regarding nurse and vocational rehabilitation were implemented through directives, training modules, and DFEC Procedure Manual updates. A second set of SRA recommendations focused on effective and efficient communications in order to drive teamwork among all stakeholders in the FEC program, and action in this area was taken on many of these recommendations through the release of Procedural Manual chapters, clarification of privacy laws for the contractors and altering language in DFEC's acceptance and case management letters to clearly communicate DFEC's purpose and mission to injured Federal workers. A third series of recommendations centered on broadening timely work hardening and return-to-work options, and many of these recommendations were addressed as well in the Procedure Manual chapters' updates.

FEDERAL EMPLOYEES' COMPENSATION ACT		
	FY 2010	**FY 2011**
Number of Employees (FTE Staffing Used)	865	838
Administrative Expenditures [1]	$157.5 M	$153.6 M
Cases Created	127,526	121,290
Wage-Loss Claims Initiated	19,861	20,239
Total Compensation and Benefits (Actual Obligations) [2]	$2,857.8 M	$2,983.9 M
Number of Medical Bills Processed	5,176,571	5,300,000

[1] OWCP expenditures; excludes DOL support costs, but includes "fair share" capital expenditures of $59.4 million in FY 2010 and $55.4 million in FY 2011, respectively.

[2] Compensation, medical, and survivor benefits.

BLACK LUNG BENEFITS ACT

Introduction

The Division of Coal Mine Workers' Compensation (DCMWC) completed its thirty-eighth year administering Part C of the Black Lung program in 2011. The initial Black Lung benefits program was enacted as part of the Coal Mine Health and Safety Act of 1969 (the Act). This law created a system to compensate victims of dust exposure in coal mines with public funds initially administered by the Social Security Administration (SSA).

The number of claims filed in the early 1970's greatly exceeded expectations. The Act was amended by the Black Lung Benefits Act of 1972 (BLBA) which simplified interim eligibility criteria for all claims filed with SSA, and transferred processing of new claims to the Department of Labor (DOL) in 1973. The Office of Workers' Compensation Programs (OWCP) assumed responsibility for processing and paying new claims on July 1, 1973. Further amendments in the Black Lung Benefits Reform Act of 1977 (Public Law 95-239) mandated that all pending and denied claims be reopened and reviewed using interim medical criteria. The Black Lung Benefits Revenue Act of 1977 (Public Law 95-227) created the Black Lung Disability Trust Fund (Trust Fund), financed by an excise tax on coal mined and sold in the United States. The law authorized the Trust Fund to pay benefits in cases where no responsible mine operator could be identified and transferred liability for claims filed with DOL based on pre-1970 employment to the Trust Fund. It also permitted miners approved under Part B to apply for medical benefits available under Part C. These amendments made the Federal program permanent but state benefits continued to offset Federal benefits where they were available.

The 1981 Amendments to the Act tightened eligibility standards, eliminated certain burden of proof presumptions, and temporarily increased the excise tax on coal to address the problem of a mounting insolvency of the Trust Fund, which was indebted to the U.S. Treasury by over $1.5 billion at that time.

In 1997, the responsibility for managing active SSA (Part B) Black Lung claims was transferred to DOL by a Memorandum of Understanding between SSA and DOL. This change improved customer service to all Black Lung beneficiaries and was made permanent in 2002 when the Black Lung Consolidation of Administrative Responsibilities Act placed the administration of both programs with DOL.

The Act was amended by several provisions included in the Patient Protection and Affordable Care Act (ACA) which was signed into law in March 2010. These amendments restored two provisions of the Act that had been eliminated by the 1981 Amendments. First, they reinstated the provision that dependent survivors of miners who were receiving benefits at the time of their death were automatically entitled to benefits and did not need to establish that the miner's death was due to pneumoconiosis. Second, they restored a rebuttable presumption that a miner's total disability or death was due to pneumoconiosis upon proof that the miner worked at least 15 years in qualifying coal mine employment and suffered from a totally disabling respiratory or pulmonary impairment. The amendments apply to all claims filed after January 1, 2005, provided that the claim is pending on or after March 23, 2010.

Benefits and Services

The Black Lung Part C program provides two types of benefits: monthly wage replacement and medical services. The program pays a standard monthly benefit (income replacement) to miners who are determined to be totally disabled from black lung disease and to certain eligible survivors of deceased miners. The monthly rate of benefits is adjusted upward to provide additional compensation for up to three eligible dependents. In FY 2011, monthly and retroactive benefit payments totaled $193.0 million.

The Part C program also provides both diagnostic and medical treatment services for totally disabling pneumoconiosis. Diagnostic testing is provided for all miner-claimants to determine the presence or absence of black lung disease and the degree of associated disability. These tests include a chest x-ray, pulmonary function study, arterial blood gas study, and a physical examination. Medical coverage for treatment of black lung disease and directly related conditions is provided for miner-beneficiaries. This coverage includes prescription drugs, office visits, and hospitalizations. Also provided, with prior approval, are durable medical equipment (primarily home oxygen), outpatient pulmonary rehabilitation therapy, and home nursing visits.

Medical expenditures under the Black Lung Part C program during FY 2011 were $34.4 million. This includes payments of $6.7 million for diagnostic services, $26.2 million for medical treatment, and $1.5 million in reimbursements to the United Mine Workers of America Health and Retirement Funds for the cost of treating Black Lung beneficiaries. Approximately 196,000 bills were processed during the year.

Total Black Lung Part C program expenditures for all benefits in FY 2011 were $227.4 million, a decrease of $11.0 million from FY 2010. In FY 2011, benefits were provided from the Trust Fund to approximately 23,000 beneficiaries each month.

In addition to Trust Fund expenditures, self-insured mine operators and insurance companies paid approximately $28.5 million to over 4,300 miners and survivors. An estimated $4.1 million was also paid in medical treatment benefits, for an estimated cost to the industry of $32.6 million during FY 2011.

State workers' compensation laws require coal mine operators to obtain insurance or qualify as a self-insured employer to cover employee benefit liabilities incurred due to occupational diseases that are covered by state law. If state workers' compensation is paid for pneumoconiosis, any Federal black lung benefit received for that disease is offset or reduced by the amount of the state benefit on a dollar-for-dollar basis. As of September 30, 2011, there were 518 Federal black lung claims being offset due to concurrent state benefits. An additional 11 were being offset due to other Federal benefits, and 8 due to earnings offsets.

As an additional benefit to claimants, the law provides for payment of attorneys' fees and legal costs incurred in connection with approved benefit claims. The fees must be approved by adjudication officers. During the past fiscal year DCMWC processed 28 fee petitions and paid approximately $0.4 million in attorneys' fees from the Trust Fund.

In FY 2011, 1,431 claims were forwarded for formal hearings before the Office of Administrative Law Judges (OALJ) and 431 claims were forwarded on appeal to the Benefits Review Board (BRB). At the end of FY 2011, the OALJ had 2,106 claims pending while 544 were pending before the BRB.

In the Black Lung Part B program, nearly 23,000 active beneficiaries **(**with almost 2,000 dependents) were receiving nearly $16 million in monthly cash benefits as of September 30, 2011. Part B benefits in FY 2011 totaled nearly $190 million. DCMWC completed more than 3,900 maintenance actions on Part B claims during the year, on average less than one week from notification.

In order to maintain the integrity of benefit payments and reduce the incidence of improper payments, the Black Lung program continued to match its beneficiary file to the Social Security Administration's Death Master File on a weekly basis in order to be alerted of any deaths in the beneficiary population. DCMWC also continued to maintain the accuracy of payments by updating beneficiary information annually.

Black Lung Disability Trust Fund

The Trust Fund, established in 1977 to shift the responsibility for the payment of black lung claims from the Federal government to the coal industry, is administered jointly by the Secretaries of Labor, the Treasury, and Health and Human Services. Claims that were approved by SSA under Part B of the BLBA are not paid by the Trust Fund, but rather from the general revenues of the Federal government. Because the Trust Fund was established at the same 0time the Reform Act liberalized eligibility for benefits, and because retroactive benefits far exceeded the collection of excise taxes (which were not applicable retroactively), the Fund soon began to require advances from the Treasury.

These advances were made in the late 1970's and early 1980's when interest rates were high. Consequently, the Trust Fund continued to require advances for the purpose of debt servicing, even though excise tax receipts and benefits eventually stabilized. Despite a moratorium on interest from 1986 through 1990, and several extensions of the excise tax rates set in 1981, by the end of FY 2008 the Trust Fund was over $10 billion in debt to the Treasury. The Congress addressed this debt as part of Public Law 110-343, the Emergency Economic Stabilization Act enacted in FY 2009. The debt was restructured by a one-time allocation from the Treasury and the issuance of zero-coupon Treasury bonds at current interest rates.

Trust Fund revenues consist of monies collected from the industry in the form of an excise tax on mined coal that is sold or used by producers in the United States; funds collected from responsible mine operators (RMOs) for monies they owe the Trust Fund; payments of various fines, penalties, and interest; refunds collected from claimants and beneficiaries for overpayments; and repayable advances obtained from Treasury's general fund when Trust Fund expenses exceed revenues. Excise taxes, the main source of revenue, are collected by the Internal Revenue Service and transferred to the Trust Fund. In FY 2011, the Trust Fund received a total of $622.9 million in tax revenues. An additional $11.2 million was collected from RMOs in interim benefits, fines, penalties, and interest. Total receipts of the Trust Fund in FY 2011 were nearly $742 million, including $108 million in repayable advances from the Department of the Treasury.

Total Trust Fund disbursements during FY 2011 were nearly $746 million. These expenditures included $227.4 million for income and medical benefits, $57.5 million to administer the program ($31.3 million in OWCP direct costs and $26.2 million for legal adjudication and various financial management and investigative support provided by the Office of the Solicitor, the OALJ, the BRB, Office of the Inspector General, and the Department of the Treasury), $60.2 million in one-year obligation payments to Treasury (for FY 2010 advances and interest on those advances), and $400.9 million in bond payments.

In 1981, the Black Lung Benefits Revenue provisions temporarily increased the previous excise tax to $1.00 per ton for underground coal and $0.50 per ton on surface mined coal, with a cap of four percent of sales price. In 1986, under the Comprehensive Budget Reconciliation Act of 1985, excise tax rates were increased again by 10 percent. The rates for underground and surface mined coal were raised to $1.10 and $0.55 per ton respectively, and the cap was increased to 4.4 percent of the sales price. Under current law, these tax rates will remain in effect until December 31, 2018, after which the rates will revert to their original levels of $0.50 underground, $0.25 surface, and a limit of two percent of sales price.

Central Medical Bill Processing

OWCP's medical bill processing service continued to achieve improvements in operating efficiency and effectiveness. Timely and accurate medical bill processing is a critical element in administration of the Black Lung Program. During FY 2011, DCMWC avoided $546,122 in medical costs due to further improvements in the editing of bills.

In FY 2011, the vendor processed 195,753 Black Lung bills. A total of 99.9 percent of bills were processed within 28 days. The number of telephone calls handled was 47,778. Enrollment of 3,224 new providers brought the total of enrolled Black Lung providers to 128,516.

Patient Protection and Affordable Care Act

As a result of the Patient Protection and Affordable Care Act (ACA), enacted in March 2010, DCMWC experienced an increase of 62 percent in new Federal Black Lung claims filed in FY 2010 compared to FY 2009. Most DCMWC district offices received a major influx of new claims as a result of this new legislation during the third and fourth quarters of FY 2010. This increase of new claims caused an unexpected inventory of pending claims, which was steadily reduced through FY 2011. The increased filing of new claims continued during FY 2011, but at a rate 14 percent below that of FY 2010.

One important consequence of the ACA is the reinstatement of the provision that dependent survivors of miners who were receiving benefits at the time of their death do not need to establish that the miner's death was due to pneumoconiosis, but are automatically entitled to benefits. Although many eligible survivors of miner beneficiaries would have been awarded without this provision, they have received benefits sooner because extended case development and litigation was unnecessary.

In November 2010, DOL's Fall Regulatory Agenda included RIN 1240-AA04, which announced a scheduled publication of implementing regulations in March 2012. Because the ACA amended the Black Lung Benefits Act itself, DCMWC had begun to process claims in accordance with the amended BLBA as soon as the ACA was enacted.

Government Performance Results Act

In FY 2011, DCMWC continued its efforts to reach DOL's GPRA goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families." At the beginning of FY 2011, DCMWC had set its goal to:

- Reduce the average time required to process a claim from the date of receipt to the issuance of a Proposed Decision and Order (PDO) to no more than 250 days.

Although the processing goal for the previous year had been 200 days, DCMWC was unable to meet it and determined that a new and more attainable goal was necessary, based on the large increase in the inventory of pending claims and the expectation of a higher than usual influx of new claims. New claims increased from 4,354 in FY 2009 to 7,044 in FY 2010 but then declined by 14 percent to 6,059 in FY 2011. These claim numbers include survivors' conversions that are automatically awarded. Conversion claims numbered 444 in FY 2009, 662 in FY 2010, and 685 in FY 2011. The total inventory of claims pending a PDO decreased from 4,140 at the end of FY 2010 to 3,605 at the close of FY 2011. DCMWC met the FY 2011 goal by achieving an average processing time of 238 days.

Recognizing that meeting the GPRA goal for FY 2012 would be challenging, DCMWC focused on it by studying internal timeliness milestones, including a measurement of specific timeframes for medical testing. These measures

would allow district directors to determine the length of time that claim actions are beyond the control of a district office, and provide more detailed information on case timeliness.

Although DCMWC no longer maintains its original GPRA goal of ensuring that 80 percent of claims have no requests for further action pending one year after receipt of the claim, it continues to monitor its performance in resolving claims. In FY 2011, 85.2 percent of claims were resolved with no pending requests for further action. The Black Lung program will continue to work closely with both its stakeholder and authorized provider communities to ensure that delivery of services continues to improve and performance standards are met.

Black Lung Program Evaluation

At the beginning of FY 2010, the Government Accountability Office (GAO) issued a report (GAO-10-7) assessing DOL's policies and procedures regarding the processing and litigation of claims for Black Lung benefits, including some DCMWC procedures. As part of its response to the report, DCMWC took steps to improve physicians' documentation of disease and disability, track claimant utilization of lay and attorney representation while a claim is pending before the district director, and established a mechanism to track complaints about testing practices from stakeholders. At the close of FY 2011, after consultations with a small group of active diagnostic physicians, a new physician's report form had been developed and was pending approval by the Office of Management and Budget. The database regarding complaints about physicians had previously been developed and was maintained throughout FY 2011. New database measurement techniques were developed that enabled DCMWC to report on claimant representation at the district office level, and preliminary reports indicate that 31.2 percent of claimants were represented by an attorney at the time the claim was adjudicated, and another 15.3 percent were represented by lay representatives.

Operation and Maintenance of Automated Support Package

DCMWC's Automated Support Package (ASP) is provided through a contract. The ASP includes a client-server computer system for all black lung claims, statistical and data processing, telecommunications support, and administrative functions.

During FY 2011, DCMWC implemented several changes to the ASP that improved the user's search capability, enhanced available information about coal mine operators, insurers, and self-insured operators, and improved database security.

Stakeholder and Regulatory Assistance

Compliance with Insurance Requirements. Section 423 of the BLBA requires that each coal mine operator subject to the BLBA secure payment of any benefits liability by qualifying as a self-insured employer or by insuring the risk with a stock or mutual company, an association, or a qualified fund or individual. Any coal mine operator failing to secure payment is subject to a civil penalty of up to $1,000 for each day of noncompliance.

According to FY 2011 estimates by DOL's Mine Safety and Health Administration, there were approximately 617 coal mine operators controlling about 2,035 active coal mine operators subject to the requirements of the BLBA. Under the BLBA, the Secretary of Labor can authorize a coal mine operator to self-insure after an analysis of the company's application and supporting documents. At the close of FY 2011, 79 active companies were authorized by the Secretary of Labor to self-insure. These self-insurance authorizations cover approximately 720 subsidiaries and affiliated companies.

The number of coal mining operations has remained relatively stable for the past few years, although the number of independent coal companies has been declining. Many insurance policies were cancelled during FY 2009 and FY 2010, but the number of cancellations declined in FY 2011, when the Responsible Operator (RO) section sent letters

to 145 coal mine operators after their insurance policies had been cancelled or had expired, reminding them of their statutory requirement to insure and stay insured against their potential liability for black lung benefits. Of these, 28 companies responded and were found to either be insured or to not require insurance. Seventy-one were delivered with no response, and the remaining 46 were returned unclaimed or failed delivery for another reason. Letters also were mailed to commercial insurers reminding them of the statutory requirements for writing black lung insurance and of the annual reporting requirements. These letters generated many questions from underwriters and resulted in improved compliance as well as improved relations with stakeholders. During FY 2011, DCMWC received 2,913 reports of new or reissued policies.

By the end of FY 2011, DCMWC had developed an interface with the National Council on Compensation Insurance (NCCI) that will enable the program to receive insurance policy data on individual operators from NCCI for states that mandate such reporting. The reporting system is expected to be tested and activated early in FY 2012, and promises to make policy coverage more reliable and accurate than the current paper-based reporting system.

Compliance with Medical Diagnostic Requirements. Section 413(b) of the BLBA requires DCMWC to provide each individual miner who files a claim for benefits with the opportunity to undergo a complete pulmonary evaluation at no cost to the miner. The project to improve the quality of these medical evaluations and reports continued during FY 2011, with district directors and national office staff making a number of visits to clinics and individual physicians. At these site visits, DCMWC staff reviewed the physicians' written evaluations of the medical information obtained during the complete pulmonary evaluations and made suggestions for improving and standardizing the evaluations and reports. DCMWC officials also met several times with physicians at state and national conferences of the National Coalition of Black Lung and Respiratory Disease Clinics to help improve reporting. The program also focused on updating the list of approved diagnostic physicians by requesting current certification and specialty information in order to ensure that highly-qualified doctors were available to perform medical evaluations.

In FY 2011, DCMWC continued its longstanding commitment to ensuring that payments to beneficiaries requiring assistance are properly utilized. DCMWC continued to track district office actions in the appointment of representative payees due to physical or other incapacity and to evaluate these appointments and related expenditure reports within prescribed time frames to verify benefits paid on behalf of the beneficiary were used in his/her best interest. A pilot program of visiting beneficiaries and long-term care facilities to confirm that benefits were properly expended was carried out and evaluated during the year. DCMWC determined that contact with all beneficiaries through the annual update process was equally as effective as home visits, and more cost-efficient.

Litigation

Courts of Appeals

During FY 2011, the courts of appeals published four decisions in cases arising under the BLBA. Important holdings from these cases are summarized below.

2010 Amendments to the BLBA; Fifteen-Year Rebuttable Entitlement Presumption – 30 U.S.C. § 921(c)(4). The Patient Protection and Affordable Care Act (ACA) amended the BLBA by reinstating Section 411(c)(4), which provides a rebuttable presumption that a miner's total disability or death was due to pneumoconiosis upon proof that the miner worked at least 15 years in qualifying coal mine employment and suffered from a totally disabling respiratory or pulmonary impairment. The amended presumption applies to both miners' and survivors' claims filed after January 1, 2005, provided the claim is pending on or after the ACA's March 23, 2010 enactment date. The

party opposing entitlement may rebut the presumption by proving either the miner does not have pneumoconiosis or that his respiratory impairment does not arise out of coal mine employment or (in a survivor's claim) that his death was unrelated to his coal mine employment.

In FY 2011, two courts of appeals issued decisions addressing the application of amended Section 411(c)(4) to pending claims. In *Keene v. Consolidation Coal Co.*, 645 F.3d 844 (7th Cir. 2011), the Seventh Circuit rejected an employer's argument that applying amended Section 411(c)(4) to a pending claim is unconstitutional. In *Keene*, the Benefits Review Board's decision affirming an ALJ's denial of benefits to the survivor of a miner was pending before the Seventh Circuit when the ACA became effective. Because her claim met the ACA's filing and pendency requirements, the claimant asked the court to vacate the denial and remand for consideration under Section 411(c)(4). In response, the employer argued that application of the amendment to a pending claim violates the Fifth Amendment's due process and takings clauses. The court held that retroactive application of the amendment does not violate the constitution. With respect to due process, the court rejected the employer's assertion that the amendment has no rational purpose, holding that its purpose is to ease the burden of proving entitlement for deserving claimants. The court also noted that the amendment retroactively applies only to a limited category of claims, which balances the parties' competing interests. The court also held the employer failed to demonstrate that the amendment resulted in an unconstitutional taking of its property. The court pointed out that the employer failed to provide any evidence regarding the impact of the legislation on its own finances; that a mandatory insurance-policy endorsement makes carriers and self-insured coal mine operators liable for any obligations arising from legislative amendments; and that the amendment was not an improper governmental action because it is economic legislation with limited retroactive application. The court therefore remanded the claim for consideration of the Section 411(c)(4) presumption.

In *Morrison v. Tennessee Consolidated Coal Co.*, 644 F.3d 473 (6th Cir. 2011), a miner's claim was pending in the Sixth Circuit when the ACA was enacted. Because the miner's claim met the ACA's filing date and pendency requirements, the court held the claim must be remanded because the intervening change in the BLBA required that the parties be provided the opportunity to introduce evidence addressing invocation, rebuttal, and their revised burdens of proof. In doing so, the court made several important observations: it emphasized that (1) the employer bears the burdens of production and persuasion in rebutting the presumption; (2) rebuttal requires an affirmative showing that the miner does not have pneumoconiosis or that his impairment is unrelated to coal mine employment; and (3) a negative x-ray alone is insufficient to rebut the presumption.

Statute of Limitations – 30 U.S.C. § 932(f); 20 C.F.R. § 725.308. In order to comply with the BLBA's statute of limitations, a miner must file a benefits claim within three years after a medical determination finding him totally disabled due to pneumoconiosis is communicated to him. In *Helen Mining Co. v. Director, OWCP*, 650 F.3d 248 (3rd Cir. 2011), the Third Circuit addressed whether a physician's diagnosis of totally disabling pneumoconiosis in an earlier claim triggers the statute of limitations for all later claims. In this case, the miner filed his first claim in 1989. Although one physician diagnosed him with totally disabling pneumoconiosis, the ALJ credited contrary medical evidence and denied the claim. In 2006, the miner filed a second claim. Relying on the opinion diagnosing totally disabling pneumoconiosis from the first claim, the employer argued the second claim was barred because the miner filed it more than three years after receiving the favorable medical opinion in the first claim. The ALJ and BRB both rejected this argument. Aligning itself with three other courts of appeals, the Third Circuit agreed. It held the discredited opinion from the earlier claim was a "misdiagnosis" for purposes of all future claims and could not trigger the time-bar. The Court reasoned a narrow interpretation of the statute of limitations was consistent with Congressional intent favoring the liberal approval of claims, provides deserving miners with every opportunity to establish their entitlement given the progressive nature of pneumoconiosis, and is consistent with allowing a miner to file multiple claims provided his condition has changed after each claim's denial. Because the ALJ was bound by the final denial of the earlier claim, the court held the discredited opinion from that claim could not trigger the statute of limitations in the second claim.

Intervention – 20 C.F.R. § 725.360(d). The black lung program regulations provide that any individual may request that it be made a party to a black lung claim if its rights with respect to benefits would be prejudiced by a decision. In *Crowe v. Zeigler Coal Co.*, 646 F.3d 435 (7th Cir. 2011) (Hamilton, J., concurring; Ripple, J., dissenting), a majority of the Seventh Circuit panel held that a surety for a bankrupt coal mine operator waited too long to file its request to intervene in a modification proceeding that the operator had initiated. The court denied the surety's request to intervene, and overturned the results of the modification proceedings. The BLBA's modification procedure allows a party to request reconsideration of a decision that has become final under certain circumstances. In 2001, the operator petitioned for modification of a decision awarding benefits to the miner; an ALJ denied the petition. The operator appealed to the BRB, but was liquidated in bankruptcy proceedings while the claim was pending. The BRB vacated the ALJ's decision and remanded the case for further proceedings. In 2005, while the case was before the ALJ, DOL identified a surety bond that covered the miner's claim, and informed the surety that it could intervene in the modification proceedings. Although the surety did not intervene at that time, the ALJ modified the miner's award to a denial of benefits; the miner appealed, and the BRB remanded the case for further consideration. The surety did not file a motion to intervene in the modification proceedings until 2008. The ALJ permitted intervention, and again denied benefits to the miner. The BRB affirmed the denial, and the survivor of the now deceased miner appealed to the Seventh Circuit. The majority reversed the BRB's decision. It held that the operator should have been dismissed because the bankruptcy liquidation order did not make it a party-in-interest to BLBA proceedings. The majority also concluded that by waiting to intervene three years after it had been notified of the proceedings, the surety prejudiced the miner's interests because he was required to defend his award against a "phantom litigant." The court reversed the BRB's decision and reinstated the miner's award.

Benefits Review Board

During FY 2011, the Benefits Review Board (BRB) issued 494 decisions in cases arising under the BLBA, of which five were published. Important holdings from these cases are summarized below.

BRB Review of Interlocutory Orders. The BLBA requires the DOL to afford each miner-claimant the opportunity to receive a complete pulmonary examination, payable by the Trust Fund, to substantiate his claim. 30 U.S.C. § 923(b). In *Miller v. Assoc. Electric Cooperative, Inc.*, 24 BLR 1-233, 2011 WL 4455032 (Aug. 17, 2011), the employer appealed an interlocutory ALJ order remanding a claim for the district director to obtain a new pulmonary examination. The ALJ found the initial examination was incomplete and over five years old. In dismissing the operator's appeal, the BRB held the ALJ's order failed to satisfy two of the three grounds for accepting an interlocutory appeal: the order did not resolve a significant issue separate from the merits of the claim; and the order could be reviewed in a future appeal once the ALJ decided the merits of the claim.

Application of Stipulations in Subsequent Claims – 20 C.F.R. § 725.309(d)(4). A black lung program regulation promulgated in 2001 provides that a stipulation made in connection with a claim will be binding on that party in any subsequent claim. In *Harris v. Cannelton Industries, Inc.*, 24 BLR 1-217, 2011 WL 1821519 (Apr. 29, 2011), the BRB considered whether a stipulation made in a claim adjudicated before the current regulation was promulgated binds that party in a later claim. The employer stipulated that the claimant had pneumoconiosis arising out of coal mine employment for purposes of a claim filed in 1982; that claim was eventually finally denied. The miner filed a new claim in 2008. Based on the revised regulation, the ALJ concluded the operator's prior stipulation was valid. The BRB vacated the ALJ's decision. It held the stipulation was not binding because the revised regulation was not in effect when the operator entered into the stipulation.

2010 Amendments to the BLBA; Automatic Derivative Entitlement for Survivors – 30 U.S.C. § 932(l). The Patient Protection and Affordable Care Act (ACA) amended the BLBA by providing automatic entitlement for certain survivors of deceased miners if the miner was receiving BLBA benefits at death, the survivor filed a claim after January 1, 2005, and the claim was pending on or after the March 23, 2010 enactment date of the ACA. In FY 2011, the BRB issued two published decisions interpreting this amendment. In *Stacy v. Olga Coal Co.*, 24 BLR 1-207, 2010 WL 6809226 (Dec. 22, 2010), the employer argued the automatic entitlement provision applies only if the miner who was awarded benefits filed his claim after January 1, 2005. Accepting the Director's position, the Board

held that the plain language of amended Section 422(l) mandates its application to survivors' claims that are filed after January 1, 2005 and pending on or after the ACA's March 23, 2010 enactment date. In *Fairman v. Helen Mining Co.*, 24 BLR 1-225, 2011 WL 1821548 (Apr. 29, 2011), the Board, agreeing with the Director, held the amended Section 422(l) applies to affected claims even though it is inconsistent with other BLBA provisions. The Board reasoned that Congress made the amending legislation mandatory regardless of any conflicting language in other BLBA provisions.

BLACK LUNG BENEFITS ACT				
	Part C [1]		Part B [2]	
	FY 2010	FY 2011	FY 2010	FY 2011
Number of Employees (FTE Staffing Used)	168	161	16	17
OWCP Administrative Expenditures [3]	$32.7 M	$31.3 M	$4.9 M	$5.1 M
Total Compensation and Benefit Payments [4]	$238.4 M	$227.4 M	$213.8 M	$189.5 M
Beneficiaries in Pay Status at End of Fiscal Year				
Monthly	24,067	22,332	25,593	22,424
Medical Benefits Only	1,315	1,084	N/A	N/A
Responsible Coal Mine Operator Beneficiaries in Pay Status at End of Fiscal Year				
Monthly	4,317	4,228	N/A	N/A
Medical Benefits Only	482	414	N/A	N/A

[1] Part C benefits are paid out of the Black Lung Disability Trust Fund or by the liable coal mine operator or insurer.

[2] Part B benefits are paid out of general revenue funds from the U.S. Treasury.

[3] Part C administrative expenditures exclude DOL and Department of Treasury support costs of $25.8 million in FY 2010 and $26.1 million in FY 2011, respectively. Also excludes interest on the Trust Fund debt.

[4] Part C payments include only Trust Fund compensation and benefits (excluding collections from responsible coal mine operators for benefits paid by the Trust Fund on an interim basis, refunds for OWCP administrative costs paid, and other miscellaneous reimbursements). Excluded are self-insured mine operator and insurance carrier payments that totaled approximately $39.2 million in FY 2010 and $32.6 million in FY 2011, respectively.

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

Introduction

Enacted in 1927, the Longshore and Harbor Workers' Compensation Act (LHWCA) provides compensation for lost wages, medical benefits, and rehabilitation services to longshore, harbor, and other maritime workers who are injured during their employment or who contract an occupational disease related to employment. Survivor benefits also are provided if the work-related injury or disease causes the employee's death. These benefits are paid directly by an authorized self-insured employer, through an authorized insurance carrier, or in particular circumstances, by an industry-financed Special Fund.

In addition, LHWCA covers certain other employees through the following extensions to the Act:

- The Defense Base Act (DBA) of August 16, 1941, extends the benefits of the LHWCA to employees working outside the continental United States under certain circumstances set out in jurisdictional provisions. Primarily it covers all private employment on U.S. military bases overseas, land used for military purposes on U.S. territories and possessions, and U.S. Government contracts overseas.

- The Nonappropriated Fund Instrumentalities Act of June 19, 1952, covers civilian employees in post exchanges, service clubs, etc. of the Armed Forces.

- The Outer Continental Shelf Lands Act of August 7, 1953, extended Longshore benefits to employees of firms working on the outer continental shelf of the United States, such as off-shore drilling enterprises engaged in exploration for and development of natural resources.

- The District of Columbia Workmen's Compensation Act (DCCA), passed by Congress on May 17, 1928, extended the coverage provided by the Longshore Act to private employment in the District of Columbia. Since the District of Columbia passed its own workers' compensation act effective July 26, 1982, OWCP handles claims only for injuries prior to that date.

The original law entitled the Longshoremen's and Harbor Workers' Compensation Act, provided coverage to certain maritime employees injured while working over navigable waters. These workers had been held excluded from state workers' compensation coverage by the Supreme Court (*Southern Pacific Co. v. Jensen*, 244 U.S. 205 (1917)).

Operations

Disability compensation and medical benefits paid by insurers and self-insurers under LHWCA and its extensions totaled $997.9 million in Calendar Year (CY) 2010, a 6.2 percent increase compared to CY 2009, which was largely attributable to continuing increases in payouts under the Defense Base Act.

In Fiscal Year (FY) 2011, total DOL expenditures for program operations and the administration of LHWCA and its extensions were $25.7 million, of which $11.4 million were the direct costs of OWCP. The remaining $14.3 million

represent the cost of legal, audit, and investigative support provided by the Office of Administrative Law Judges (OALJ), the BRB, the Office of the Solicitor (SOL), and the Office of the Inspector General (OIG).

At year's end, the Division of Longshore and Harbor Workers' Compensation (DLHWC) employed 95 people in the national office and 10 district offices.

During FY 2011, approximately 600 self-insured employers and insurance carriers reported 29,169 lost-time injuries under the LHWCA. At year's end, 14,942 maritime and other workers were in compensation payment status.

The conflict in Iraq, Afghanistan, and related military activities in the Middle East continued to generate interest in Longshore program operations as they relate to the administration of the DBA in FY 2011. Injuries occurring under DBA are reported to DLHWC District Offices determined by the geographic location of the injury occurrence. During the year, a total of 11,510 cases of injury and death were reported under DBA.

Longshore Special Fund

The Special Fund under the LHWCA was established in the Treasury of the United States pursuant to section 44 of the Act and is administered by the national office of DLHWC. Proceeds of the fund are used for payments under section 10(h) of the LHWCA for annual adjustments in compensation for permanent total disability or death that occurred prior to the effective date of the 1972 amendments, under section 8(f) for second injury claims, under section 18(b) for cases involving employer insolvency, under sections 39(c) and 8(g) for providing rehabilitation assistance to persons covered under the LHWCA, and under section 7(e) to pay the cost of medical examinations.

The Special Fund is financed through fines and penalties levied under the LHWCA; $5,000 payments by employers for each instance in which a covered worker dies and when it is determined that there are no survivors eligible for benefits; interest payments on Fund investments; and payment of annual assessments by authorized insurance carriers and self-insurers. Fines, penalties, and death benefit levies constitute a small portion of the total amount paid into the Special Fund each year. The largest single source of money for the fund is the annual assessment.

A separate fund under the DCCA is also administered by OWCP. Payments to and from this fund apply only to the DCCA.

The LHWCA Special Fund paid $125.3 million in benefits in FY 2011, of which $112.9 million was for second injury (section 8(f)) claims. FY 2011 expenditures from the DCCA Special Fund totaled $9.5 million, of which $8.3 million was for second injury cases.

Government Performance Results Act

In FY 2011 under the Government Performance Results Act (GPRA), DLHWC measured the percentage of the Employer's First Report of Injury and the First Payment of Compensation for Defense Base Act (DBA) and non-DBA cases filed within 30 days. The First Report of Injury measure tracks the time from the date of injury or death, or the date of the employer's knowledge of the injury and the onset of the disability, to the date the written notice of injury was received by a DLHWC district office. This GPRA goal for injury report timeliness for DBA cases was exceeded as 79 percent of the cases were filed within 30 days against the target of 75 percent. The non-DBA Employers First Report of Injury target also was exceeded. DLHWC's year-end performance was 79 percent filed within 30 days against the target of 78 percent.

The First Payment of Compensation measure tracks the time it takes the employer or insurance carrier to issue the first payment after the worker becomes disabled or after death. In FY 2011 the GPRA result for DBA cases was 56 percent of the initial payments for compensation were issued within 30 days, versus the 58 percent target. This result reflects the continued challenges of operating in war zones in Afghanistan and Iraq. The non-DBA First Payment of

Compensation target for cases filed within 30 days was exceeded. DLHWC's year-end performance was 85 percent against an annual target of 83 percent.

DBA cases continue to present significant challenges for the Longshore program. Due to language barriers, security issues, and limited access to injured workers and their dependents, DBA claims typically entail lengthy and more resource-intensive development for employers/carriers. Performance goals focus on the role these employers and carriers play in achieving results. The Longshore program will continue to work with large employers and carriers to improve timeliness in both the filing of injury reports and payment of benefits.

While DBA injury and death claims received have decreased from a peak of 15,141 in FY 2007 to 11,510 in FY 2011, this is still well above the pre-Afghanistan and Iraq war total of 347 in FY 2002.

Performance Assessment

In addition to outcomes measured under GPRA, DLHWC monitors program performance in several areas, as indicated in the program's annual Operational Plan. The most noteworthy of these is dispute resolution (previously a GPRA goal in FY 2001 – FY 2009). For example, in FY 2011, DLHWC district offices conducted 2,891 informal conferences that were designed to establish the facts in each case, define the disputed issues and the positions of the parties in respect to those issues, and encourage their voluntary resolution by means of agreement and/or compromise. DLHWC continued to work on its national goal of improving the speed of its dispute resolution system to assist injured workers and employers/carriers in resolving disputed claim issues. Training was provided to staff that mediate and resolve case disputes; improving mediation skills will help to reduce the percentage of cases that move to litigation. Despite these efforts, DLHWC did not achieve the targets set for dispute resolution due to a variety of factors, including staff shortages, increased workload at the Office of Administrative Law Judges, and the weak economy impacting injured workers' ability to return to work.

Other outputs include Hearing Referral timeliness, Special Fund Application Review timeliness, Request for Informal Conference Action timeliness, Conference Recommendation timeliness, Congressional Inquiry Response timeliness, and Vocational Rehabilitation Return to Work effectiveness. DLHWC met or exceeded the goals/standards in all of these areas for FY 2011.

Claims Management and Compliance Assistance Activities

The number of DBA injury and death reports of civilian contractors in Iraq and Afghanistan, while lower than in FY 2010, continued at a high level in FY 2011, with new cases totaling 8,675, of which 414 involved the death of a worker. Between September 1, 2001 and September 30, 2011, a total of 78,595 DBA cases were reported, including 2,871 deaths, of which 58,687 cases (2,535 deaths) originated in Iraq and Afghanistan.

In response to this high number of DBA claims, DLHWC continued to handle these claims by initial screening and claim creation in the New York City District Office, then distributing the domestic claims to the district office nearest the claimant's home, ensuring that the districts with the highest number of claims were staffed with the highest number of claim specialists.

The Longshore program continued its efforts to address challenges presented in DBA claims arising from Iraq and Afghanistan. These challenges include the effective handling of Post-Traumatic Stress Disorder claims, timely payment of benefits to foreign workers and their families in areas with cultural differences, communications obstacles, limited banking and infrastructure, and lack of available medical care. The major stakeholders, including insurance companies and employers, were invited to meetings throughout the year to discuss and resolve those issues, to discuss their performance in the timely reporting of injuries, timely payment of benefits, and to share best practices.

During FY 2011, DLHWC also initiated the extraction of various monthly reports from the Longshore data systems

to provide assistance in the reviewing of performance results with industry executives on a quarterly basis. In addition, the Longshore program began sharing DBA carrier results with their larger customers, resulting in greater compliance with established performance standards.

DBA Reforms

The number and severity of DBA claims remain at high levels. During FY 2011, OWCP continued its DBA reform efforts begun in FY 2010 through an interagency working group to develop alternative approaches to the DBA that would both provide better service to injured workers and to provide that service at lower costs.

Automated Reporting Enhancements

During FY 2011, DLHWC finalized the implementation of an electronic insurance policy reporting system which allows carriers to report and update policy information automatically via a partnership with the National Council on Compensation Insurance and the other independent state reporting organizations. This system allows insurance companies to simply report via their typical state workers' compensation reporting programs to DLHWC, replacing a cumbersome and costly paper reporting requirement. The system currently receives proof of coverage information for 46 states, and is working with the last four, all state run funds, to provide the information required.

Rehabilitation Activities

The slow economic recovery continued to have a negative impact on the Longshore Rehabilitation program during FY 2011. The job market continued in its depressed state throughout the country, making job placement for rehabilitation program participants more challenging. Despite these challenges, DLHWC was very successful during the year, achieving 105 percent of its placement goal. This success is due to the excellent work of the professional providers and the oversight of DLHWC's district office staff and also to the cooperation of the larger employers in returning their injured workers to modified duties, notably the shipyards and Non-Appropriated Fund Instrumentalities.

Regulatory Activity

In FY 2010, DLHWC proposed new regulations to implement provisions of the American Recovery and Reinvestment Act of 2009 that addressed the recreational vessel industry. These proposed regulations would define the term 'recreational vessel,' and clarify a number of issues, including coverage for employees who perform both maritime and non-maritime work ('walk in and out of coverage") during a typical work day. During FY 2011, progress included preparation of the Final Rules and roll-out plan, as well as initiation of the Departmental clearance process. The Final Regulations are expected to be published in early FY 2012.

Litigation

Courts of Appeals

During FY 2011, the courts of appeals published ten decisions in cases arising under the LHWCA and its extensions. Important holdings from these cases are summarized below.

Maximum Weekly Compensation Rate – 33 U.S.C. § 906(c). The maximum amount of weekly compensation an employee or survivor may receive is subject to a statutorily-imposed cap determined by the applicable year's national average weekly wage. Each year, the Secretary of Labor calculates a new national weekly average for the fiscal year commencing October 1st of that year and ending September 30th of the following year. The maximum rate applies to employees "newly awarded compensation" and also to employees "currently receiving compensation"

for permanent total disability or death. A beneficiary may not receive more than two hundred percent of the applicable national average weekly wage rate for each fiscal year of eligibility. In *Roberts v. Director, OWCP*, 625 F.3d 1204 (9th Cir. 2010), cert granted Sup. Ct. No. 10-1399 (2011), the Court addressed the applicable initial maximum compensation rate for an employee "currently receiving" and "newly awarded" compensation. In this case, the employee ceased working in March 2002 after sustaining work-related injuries. The ALJ entered a compensation order in October 2006 directing payment of various periods of temporary and partial total and permanent disability. He found the applicable ceiling for all compensable periods was the maximum weekly rate for fiscal year 2002 when the employee first became disabled. The BRB affirmed the ALJ's decision. On appeal, the employee argued that Section 6(c)'s "newly awarded compensation" language required the employer to pay compensation due for all periods at the maximum rate for fiscal year 2007 when the ALJ entered the compensation order. The Court rejected this argument. It first considered the different meanings "award" and "awarded" assume depending on their statutory context. The Court concluded the most logical interpretation of "newly awarded" for purposes of Section 6 is the date the employee first becomes disabled, not the date a compensation order is entered. It therefore affirmed the ALJ's decision with the exception of the compensation due between July 12 and September 30, 2005. The Court held "currently receiving compensation" means the amounts due for any period during which the employee is entitled to compensation even though the employer does not actually pay it. Because the employee was "currently receiving compensation" under this definition between July and September 2005, the Court held the ALJ should have applied the fiscal year 2005 maximum compensation rate. The Supreme Court granted the employee's petition for certiorari in this case on September 27, 2011.

Interest on Past-Due Compensation – 28 U.S.C. § 1961. Although the LHWCA does not expressly authorize interest on an employee's past due benefits, it has long been accepted that interest is owed. A Ninth Circuit panel has now endorsed the Director's position that interest is properly calculated at the rate prescribed by 28 U.S.C. § 1961(a) for interest on judgments in federal civil cases. *Price v. Stevedoring Services of America, Inc.*, 627 F.3d 1145 (9th Cir. 2010) (O'Scannlain, J., concurring), reh'g en banc granted (2011). Interest in such cases is calculated at a rate equal to the "the 1-year constant maturity Treasury yield . . . for the calendar week preceding the date of judgment." The Court further held the Director may authorize simple, not compound, interest. A majority of the panel deferred to the Director's "reasonable" litigating position as set forth in his brief to the Court. The concurring judge agreed with the holding, but suggested the Court should reconsider its precedent on deferring to agency litigating positions in view of recent Supreme Court precedent that distinguishes between judicial deference to an agency position as expressed in a regulation versus litigation. The Ninth Circuit granted the claimant's petition for rehearing en banc on February 14, 2011. The en banc Court heard argument on the deference question, the interest issue, and the interpretation and application of section 6(c) regarding the proper maximum compensation rate. After oral argument, the Court placed the case in abeyance pending the Supreme Court's decision in the *Roberts* case.

Burden of Proof – 5 U.S.C. § 556(d). In a hearing loss claim, the Fourth Circuit applied the holding of the Supreme Court in *Director, OWCP v. Greenwich Collieries*, 512 U.S. 267 (1994), that an employee fails to meet his burden of proof under the Administrative Procedure Act if the medical evidence for and against the existence of a disability is equally probative. *Ceres Marine Terminals, Inc. v. Green*, 656 F.3d 235 (4th Cir. 2011). The employee alleged prolonged exposure to excessive noise and contended that he sustained compensable hearing loss. Two audiologists examined him and reached different conclusions. One audiologist diagnosed a 3.75 percent binaural hearing loss; the other audiologist found no significant hearing loss. The ALJ determined the audiologists had provided equally credible opinions. He therefore averaged the losses measured by the two experts and found the employee entitled to compensation for a 1.875 percent hearing loss. The BRB affirmed the ALJ's decision. On appeal, the Court concluded the ALJ failed to adhere to *Greenwich Collieries*. In that decision, the Supreme Court held a LHWCA claimant must satisfy the burden of proof imposed by the APA: if the evidence is equally balanced, the claimant loses because he must establish entitlement by a preponderance of the evidence. Here, although the ALJ credited one expert's opinion that the claimant sustained a compensable hearing loss, that evidence was offset by the ALJ's acceptance of a second expert's equally probative opinion that the claimant did not suffer a work-related injury leaving the evidence in equipoise.

Timeliness – 33 U.S.C. § 913. An employee must file a claim within one year after the injury under the LHWCA

and its extensions (in this case, the Defense Base Act, 42 U.S.C. §§ 1651 et seq.). The Second Circuit has joined seven other circuits in holding that a claim must be filed within one year from when the employee knows or should know that her injury is work-related and may impair her earning power. *Dyncorp Int'l v. Director, OWCP (Mechler)*, 658 F.3d 133 (2nd Cir. 2011). The employee, a former Kansas corrections officer, contracted with the employer to work overseas for three years. She was assigned to work at a Kosovo detention center operated by the United States government and commenced work in 2004. On her first day at the facility, a United Nations soldier shot her and five other employees, killing three. She returned to light-duty work only two days later, but along with physical effects of the shooting, also experienced insomnia, troubling thoughts, and anxiety. Two years after the shooting incident, the employee filed a disability claim in April 2006. In August 2006, the employee was diagnosed with depression and post-traumatic stress disorder. The ALJ found the claim untimely and denied it. The ALJ relied on a 2004 psychiatric examination as evidence the employee should have known her psychological problems might impair her wage-earning capacity. The BRB reversed, holding that the ALJ's conclusion was not supported by substantial evidence. On appeal, the Court concluded the employee's 2004 examination, therapy, and medications for anxiety would not alert a reasonable mind to the existence of an actionable claim for disability benefits because "participation in counseling, anti-anxiety drugs and sleeping aids are common in our society." Because the employee filed her claim within one year after she possessed sufficient knowledge of her disability, the Court affirmed the Board's ruling that her claim was timely.

Maritime Situs and Status – 33 U.S.C. §§ 902(3), 903(a). The LWHCA covers an employee's injury if he satisfies both the situs and status requirements. "Situs" means the actual navigable waters of the United States and certain areas adjoining the waterfront that are used for maritime activities. Maritime "status" requires the employee to spend at least some part of his working at a covered site performing tasks that are essential to maritime commerce. In *Consolidation Coal Co. v. Benefits Review Board (Smith)*, 629 F.3d 322 (3rd Cir. 2010), the employee sustained work-related injuries while repairing machinery at a garage near stockpiled coal. The Court concluded he met both requirements for LHWCA coverage. Although the employee did not exclusively repair and service machinery, the Court considered his work integral to the employer's overall business needs. Furthermore, the employee did not lose his maritime status when the employer used the machinery for non-loading purposes. With respect to the situs prong, the Court held the garage was an "adjoining area" because it had a direct role in the loading process. Finally, the Court held the employer's garage had a sufficient functional and geographic nexus with the loading process on the river to make it a covered situs. The Court affirmed the award.

Attorney Fees – 33 U.S.C. § 928(b). The Fifth Circuit agreed with the Director that an employer may not avoid liability for an employee's attorney fee by paying compensation at the rate specified in the District Director's informal conference recommendation while simultaneously pursuing a formal hearing in order to challenge the District Director's recommendation regarding its liability for additional payments. *Carey v. Ormet Primary Aluminum Corp.*, 627 F.3d 979 (5th Cir. 2010). The employer and employee disagreed over whether premium pay should be included in calculating the employee's average weekly wage and the amount of compensation he should receive. The District Director held an informal conference, failed to resolve the dispute, and issued a memorandum recommending the employer continue paying at the existing rate. The employer rejected the District Director's recommendation, but voluntarily continued paying compensation at the contested rate. An ALJ resolved the average weekly wage dispute in the employee's favor but ordered the employer to pay an amount less than either that recommended by the District Director or that paid by the employer pending the ALJ decision. Neither party appealed that decision. Thereafter, the employee's attorney requested a fee payable by the employer. The employer contested its liability for the attorney fee. The ALJ and BRB concluded that section 28(b) precluded shifting fee liability to the employer because the employee had failed to obtain an award greater than the amount the employer was willing to pay after the informal recommendation. The Fifth Circuit reversed the decisions below. It held that liability for the employee's attorney fee shifted to the employer under section 28(b) because it had forced the employee to retain counsel and defend his rights while eventually obtaining a favorable decision. The Court read the phrase "amount paid or tendered by the employer" to mean "the additional compensation, if any, to which … [the employer] believe[s] the employee is entitled." Thus, section 28(b) is satisfied if the employee obtains a compensation award in excess of what the employer was willing to pay.

Modification -- 33 U.S.C. § 922. The Fourth Circuit addressed an issue of first impression: whether the one-year period for seeking modification is triggered by the employer's payment of medical benefits. *Wheeler v. Newport News Shipbuilding and Dry Dock Co.*, 637 F.3d 280 (4th Cir. 2011). The employee injured both knees in the course of her employment. The employer paid her time-limited permanent partial disability compensation under the section 8(c)(2) schedule. More than one year after the employer's last disability-compensation payment, the employer voluntarily paid the employee's medical providers for performing total knee replacement surgery. In light of her medical deterioration, the employee sought additional disability compensation by filing a request for modification under section 22 of the Act. Section 22 allows an adjudication officer to "review a compensation case" based on a change in conditions at "any time prior to one year after the date of the last payment of compensation[.]" The Court held that voluntary payment for the employee's surgery was not a "payment of compensation" within the meaning of section 22. Although the Court believed section 22 was ambiguous on this point, it found its conclusion compelled by the statute's general scheme and purpose. Thus, because the employee did not file her modification request within one year of the employer's last payment of disability compensation, the Court held that her request was time-barred. The Supreme Court denied the employee's petition for certiorari in this case on November 28, 2011.

Presumption of Compensability – 33 U.S.C. § 920(a); Death Benefits – 33 U.S.C. § 909. In *Albina Engine & Machine v. Director, OWCP (McAllister)*, 627 F.3d 1293 (9th Cir. 2010), the Ninth Circuit clarified its view on the proper allocation of the burden of proof among multiple potentially liable employers in applying the "last responsible employer rule" and the section 20(a) presumption. The employee was exposed to asbestos in the work-place that eventually led to his death from mesothelioma. His exposure could be linked to three different employers, so his widow brought claims against each. Section 20(a) establishes a rebuttable presumption that a claim is compensable. This presumption varies the usual burden of persuasion under the APA as resting solely on the moving party. The "last employer rule" imposes the entire liability to pay compensation on the employer who most recently exposed the employee to injurious work-place conditions. The Ninth Circuit held that in order for the section 20(a) presumption to shift the burden of proof to a particular employer, the claimant, as the moving party, must first make out a prima facie case to invoke the presumption against that employer individually. Any other rule shifting the burden of proof to the non-moving party violates section 7(c) of the Administrative Procedure Act and *Greenwich Collieries*. Accordingly, the Court concluded the most logical grounds for allocating liability required the fact-finder to analyze the evidence separately and sequentially as to each employer, with the most recent employer claimed against analyzed first. Because the most recent named employer failed to rebut the presumption, the Court held it must bear full responsibility for payment of the employee's claim.

Benefits Review Board

During FY 2011, the Benefits Review Board (BRB) issued 198 decisions in cases arising under the LHWCA, of which 18 were published. Important holdings from these cases are summarized below.

Settlements – 33 U.S.C. § 908(i). In *Bomback v. Marine Terminal Co., et al.*, 44 BRBS 95, 2010 WL 4539434 (Oct. 29, 2010), the BRB addressed the criteria for a valid settlement of the injured employee's medical benefits. The employee sustained several work-related back and knee injuries over time. He and his employer's insurer settled the claims, including the claim for future medical benefits. As part of the settlement application, the parties must submit documentation estimating the employee's need for future medical treatment and its costs. An ALJ must then review the application and determine whether it provides adequate compensation in view of the accompanying documentation. In this case, the ALJ summarily approved the agreed amount for future medical benefits without providing any analysis of its adequacy. Agreeing with the Director, the BRB determined the parties had failed to submit the required estimates notwithstanding evidence the employee may need future surgeries and treatment. The BRB therefore held the settlement application was defective and vacated the ALJ's summary approval.
Settlements and Compensation Orders – 33 U.S.C. §§ 908(i), 915(b), 916. An employee may not waive his statutory right to compensation, 33 U.S.C. § 915(b); a release from liability or commutation of compensation is invalid except as provided by the LHWCA, 33 U.S.C. § 916. The sole exception to these prohibitions in sections 15 and 16 is a settlement agreement, pursuant to section 8(i), 33 U.S.C. § 908(i), which must comport with the statute and regulations concerning the form and content of settlements. It is also routine practice under the LHWCA for

parties to agree to the issuance of a compensation order based on stipulations. Such an agreed compensation order must, like any other compensation order, be in accordance with law and supported by substantial evidence. In *Aitmbarek v. L-3 Communications*, 44 BRBS 115, 2010 WL 5509969 (Dec. 23, 2010), the BRB addressed the distinction between an agreed compensation order and settlements. The employee was injured twice while working for the employer as a linguist in Iraq. The private parties stipulated to certain facts and requested the ALJ to issue a compensation order based on those stipulations. The employer also informed the ALJ that the parties specifically sought a compensation order and not his approval of a Section 8(i) agreement. The ALJ issued the requested order without making the necessary factual and legal findings. On appeal by the Director, the BRB vacated the ALJ's order. Because the ALJ had failed to make any findings, the BRB concluded his order was not supported by substantial evidence or in accordance with law. It remanded the case for the ALJ to accept evidence, make findings, and issue a new order.

Maritime Situs – 33 U.S.C. § 903(a). To be covered by the LHWCA, an employee must work on a covered situs, *i.e.*, the navigable waters of the United States or one of the adjoining areas enumerated in the statutory definition. The Fifth Circuit has held that a covered adjoining area must be defined by its proximity to navigable waters and the extent of its use in maritime activities rather than labels, fence lines, etc. In *Zepeda v. New Orleans Depot Services, Inc.*, 44 BRBS 103, 2010 WL 5509967 (Dec. 3, 2010), the employee repaired containers that were used to transport cargo by vessel, rail, and truck. He worked at a yard that did not directly adjoin navigable waters, but the waterfront was accessible by road. The ALJ found the yard met the Fifth Circuit's test for an adjoining site: it had a geographic nexus to navigable waters because of its accessibility to the waterfront, and a maritime function because some of the containers were used for loading and unloading ships. The BRB affirmed this finding. It held the employer's yard was in the vicinity of navigable waters even if it did not directly adjoin those waters. It further held the employee's container-repair work was a maritime activity despite the fact the yard itself was not actually used for loading or unloading ships. Because the employer's yard was near navigable water and associated with repair activities involving containers used for maritime work, the BRB concluded the employee worked at a covered site. The case is pending before the Fifth Circuit.

Duration of award for permanent partial disability – 33 U.S.C. § 908(c)(21). An injured employee is entitled to permanent partial disability compensation "payable during the continuance of partial disability." Agreeing with the Director, the BRB held an ALJ may not limit the duration of an injured employee's permanent partial disability award because, prior to his injury, he had intended to continue work at that job only for a specific period of time. *Raymond v. Blackwater Security Consulting, LLC*, 45 BRBS 5, 2011 WL 1752169 (Apr. 28, 2011). The employee contracted to perform security work in Afghanistan for the employer; his contract ran for one year and could be renewed in one-year increments. He sustained a work-related injury overseas, but completed his one-year stint and returned to the United States. At the hearing, the employee testified that, but for his injury, he would have renewed his overseas contract for two or three years, and then quit. The ALJ found the employee should not receive disability compensation indefinitely since he had expressed an intention to work overseas at a higher wage only for a defined time. Instead, the ALJ awarded compensation covering two distinct periods at different wage rates. For the first period, the ALJ assumed the employee would have renewed his overseas contract and continued working for higher earnings as long as he had intended. The ALJ used the statutory formula to compute the appropriate compensation. For the second time period, after the employee indicated he would have discontinued his high wage overseas employment, the ALJ awarded only a *Rambo* nominal award of $1.00 per week based on the fact that the employee's post-injury domestic earnings were comparable to his pre-deployment domestic earnings. On appeal, the BRB reversed this portion of the ALJ's decision. It held the employer must pay the employee's permanent partial disability compensation at the statutory rate for as long as he remained disabled. The BRB further held that rate must remain in effect unless a party obtains a different compensation rate by requesting modification pursuant to 33 U.S.C. § 922. The case is pending before the Ninth Circuit.

Applicable Circuit Law under the Defense Base Act – 42 U.S.C. § 1653(b). The Defense Base Act (DBA) extends LHWCA coverage to work performed by civilian employees of government contractors working outside the United States. For judicial proceedings reviewing administrative decisions in DBA claims, the DBA confers jurisdiction on the federal judicial district "wherein is located the office of the [District Director] whose

compensation order is involved." In *McDonald v. AECOM Technology Corp.*, 45 BRBS 45, 2011 WL 4701738 (Sept. 19, 2011), the BRB addressed which Circuit Court law applies to ALJ and BRB decisions involving DBA claims. The employee developed medical problems while working in Afghanistan. The ALJ awarded benefits and approved a fee for the employee's attorney. He applied Ninth Circuit law to resolve the fee dispute because OWCP's San Francisco District office had processed the claim. After the ALJ approved the fee, the San Francisco District Director filed and served the compensation order awarding the fee. On appeal to the BRB, the employer argued the Fifth Circuit's law should apply. It based that contention on the grounds: (1) the District Director office closest to the employee's Oklahoma residence was located in Houston; and (2) dicta in Ninth Circuit case law suggested that the determining factor was the location of the ALJ's office that decided the case and that was in Louisiana. The employee and the Director urged the BRB to apply Ninth Circuit law because the San Francisco District Director filed and served the ALJ's decision. The BRB agreed with the Director and the employee. Citing the plain language of the DBA, the BRB held the location of the District Director office that filed and served the ALJ's order determines the applicable federal law. The BRB therefore affirmed the ALJ's reliance on Ninth Circuit law. The case is pending before the Ninth Circuit.

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT		
	FY 2010	**FY 2011**
Number of Employees (FTE Staffing Used)	87	95
Administrative Expenditures [1]	$13.4 M	$13.5 M
Lost-Time Injuries Reported	31,628	29,169
Total Compensation Paid [2]	$1,084.8 M	$1,137.5 M
Wage-Loss and Survivor Benefits	$768.8 M	$808.6 M
Medical Benefits	$316.0 M	$328.8 M
Sources of Compensation Paid		
Insurance Companies [2]	$551.7 M	$589.4 M
Self-Insured Employers [2]	$388.1 M	$408.5 M
LHWCA Special Fund	$128.1 M	$125.3 M
DCCA Special Fund	$9.4 M	$9.5 M
DOL Appropriation	$2.0 M	$1.9 M

[1] Direct administrative costs to OWCP only, including Trust Funds; excludes DOL costs of $15.2 million in FY 2010

and $14.3 million in FY 2011, respectively, for support provided by the OALJ, BRB, SOL, and OIG.

[2] Figures are for CY 2009 and CY 2010, respectively. Note: Total compensation paid does not equal the sum of the sources of compensation due to the different time periods (CY v. FY) by which the various data are reported. For Special Fund assessment billing purposes as required by section 44 of LHWCA, compensation and medical benefit payments made by insurance carriers and self-insured employers under the Acts are reported to DOL for the previous calendar year.

ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

Introduction

Congress passed the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) in October 2000. Part B of the EEOICPA, effective on July 31, 2001, compensates current or former employees (or their survivors) of the Department of Energy (DOE), its predecessor agencies, and certain of its vendors, contractors and subcontractors, who were diagnosed with a radiogenic cancer, chronic beryllium disease, beryllium sensitivity or chronic silicosis as a result of exposure to radiation, beryllium, or silica while employed at covered facilities. The EEOICPA also provides compensation to individuals (or their eligible survivors) awarded benefits by the Department of Justice (DOJ) under Section 5 of the Radiation Exposure Compensation Act (RECA).

Part E of the EEOICPA (enacted October 28, 2004) replaced the former Part D and compensates DOE contractor/subcontractor employees, eligible survivors of such employees, and uranium miners, millers, and ore transporters as defined by RECA Section 5 for any occupational illnesses that are linked to toxic exposures in the DOE or uranium mining work environment.

On July 31, 2011, the Department of Labor (DOL) marked the tenth anniversary of its administration of the EEOICPA. DOL has served a far larger claimant population than even the proponents of the statute predicted at the time of enactment, and the compensation totals have far exceeded Congress' initial expectations. From the program's inception to the end of Fiscal Year (FY) 2011, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) has awarded compensation and medical benefits totaling over $7.4 billion under both Parts B and E of the EEOICPA. During this time, 72,998 employees or their families have received over $6.5 billion in compensation and over $907 million in medical expenses associated with the treatment of accepted medical conditions. Part B compensation has totaled more than $4.1 billion (since 2001) while Part E compensation has totaled more than $2.4 billion (since 2005).

In FY 2011 alone, 7,214 employees or their families received $573.5 million in Part B compensation. In addition, 4,233 employees or their eligible survivors received $338.6 million in Part E compensation. A total of $318.1 million was paid in covered medical benefits in FY 2011 under both Parts B and E of the EEOICPA, bringing total benefits to over $1.2 billion for the year.

Administration

Implementation of the EEOICPA is a uniquely intergovernmental activity, involving the coordinated efforts of four federal agencies to administer: DOL, DOE, DOJ, and the Department of Health and Human Services (HHS). DOL has primary responsibility for administering the EEOICPA, including adjudication of claims for compensation and payment of benefits for conditions covered by Parts B and E.

DOE designates Atomic Weapons Employer (AWE) facilities and provides DOL and HHS with verification of covered employment and relevant information on exposures including access to restricted data. DOJ notifies beneficiaries who have received an award of benefits under RECA Section 5 of their possible EEOICPA eligibility and provides RECA claimants with information required by DOL to complete the claim development process.

HHS, through its National Institute for Occupational Safety and Health (NIOSH), establishes procedures for estimating radiation doses, develops guidelines to determine the probability that a cancer was caused by workplace exposure to radiation, establishes procedures for designation of new Special Exposure Cohort (SEC) classes, and carries out the actual dose reconstruction for cases referred by DOL. Under the EEOICPA, Congress established the SEC to allow eligible claims to be compensated without the completion of a radiation dose reconstruction or determination of the probability of causation. To qualify for compensation under the SEC, a covered employee must have at least one of twenty-two "specified cancers" and have worked for a certain period of time at a facility designated in the statute or by HHS as a class within the SEC. HHS also provides administrative services and other necessary support to the Advisory Board on Radiation and Worker Health. The Board advises HHS on the scientific validity and quality of dose reconstruction efforts, and receives and provides recommendations on petitions submitted requesting additional classes of employees for inclusion as members of the SEC.

Benefits under the EEOICPA

Part B. To qualify for benefits under Part B of the EEOICPA, an employee must have worked for DOE or a DOE contractor or subcontractor during a covered time period at a DOE facility, or have worked for a private company designated as a covered AWE or beryllium vendor. The worker must have developed cancer, chronic beryllium disease, or beryllium sensitivity due to exposures at a covered work site, or chronic silicosis (for individuals who worked in Nevada and Alaskan nuclear test tunnels). A covered employee who qualifies for benefits under Part B may receive a one-time lump-sum payment of $150,000, plus medical expenses related to an accepted, covered condition. Survivors of these workers may also be eligible for a lump-sum compensation payment. Part B also provides for payment of $50,000 to uranium workers (or their eligible survivors) who received an award from DOJ under Section 5 of the RECA.

For all claims filed under Part B, the employment and illness documentation is developed by claims staff and evaluated in accordance with the criteria in the EEOICPA and relevant regulations and procedures. DOL district offices then issue recommended decisions to claimants. Claims filed under Part B for the $50,000 RECA supplement are the least complex, involving verification by DOJ that a RECA award has been made, and documentation of the identity of the claimant (including survivor relationship). DOL can also move quickly on cases involving “specified cancers” at SEC facilities because the EEOICPA provides a presumption that any of the twenty-two listed cancers incurred by an SEC worker was caused by radiation exposure at the SEC facility. For cases involving claimed cancers that are not covered by SEC provisions (that is, either cancers incurred at a non-SEC facility, a non-specified cancer incurred at an SEC facility, or an employee who did not have sufficient employment duration to qualify for the SEC designation), there is an intervening step in the process to determine causation called “dose reconstruction.” In these instances, once DOL determines that a worker was a covered employee and that he or she had a diagnosis of cancer, the case is referred to NIOSH so that the individual’s radiation dose can be estimated. After NIOSH completes the dose reconstruction and calculates a dose estimate for the worker, DOL takes this estimate and applies the methodology promulgated by HHS in its probability of causation regulation to determine if the statutory causality test is met. The standard is met if the cancer was “at least as likely as not” related to covered employment, as indicated by a determination of at least 50 percent probability.

Part E. The EEOICPA’s Part E establishes a system of federal payments for employees of DOE contractors and subcontractors (or their eligible survivors) for illnesses determined to have resulted from exposure to toxic substances at a covered DOE facility. Uranium miners, millers, and ore transporters as defined by Section 5 of the RECA may also be eligible to receive Part E benefits. Benefits are provided for any illness if it can be determined

that it was "at least as likely as not" that work-related exposure to a toxic substance was a significant factor in causing, contributing to, or aggravating the illness or death of an employee. Additionally, the EEOICPA provides that any determination made under Part B to award benefits (including RECA Section 5 claims) is an automatic acceptance under Part E for causation of the illness, where the employment criteria are also met. The maximum payable compensation under Part E is $250,000 for all claims relating to any individual employee, meaning that a total of $400,000 can be paid in Part B plus E compensation with respect to a single worker.

Under Part E, a covered employee may be eligible to receive compensation for the percentage of impairment of the whole person that is related to a covered illness, as well as any illness, injury, impairment, or disease shown by medical evidence to be a consequence of an accepted Part E illness. The EEOICPA specifically requires that impairment be determined in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment (*AMA's *Guides).* Impairments included in ratings are those that have reached maximum medical improvement (MMI), *i.e.*, they are well-stabilized and unlikely to improve substantially with or without medical treatment. MMI is not required if an illness is in a terminal stage. Eligible employees receive $2,500 for each percentage point of impairment found to be attributable to a covered illness under Part E.

Also under Part E, covered employees may be eligible to receive wage-loss benefits. Wage-loss benefits are paid for each qualifying calendar year (prior to reaching normal Social Security Act retirement age) in which, as a result of the covered illness, an employee's earnings fell a specific percentage below his or her average annual earnings for the 36-month period prior to the month in which the employee first experienced wage-loss (not including periods of unemployment). The EEOICPA provides that covered, eligible employees may receive $15,000 for any year in which they made less than 50 percent of their baseline wage, as a result of a covered illness, and $10,000 for any year in which they made more than 50 percent but less than 75 percent of that baseline wage. Medical benefits for the covered illness are also payable, in addition to monetary compensation.

Part E survivor benefits include a basic lump sum of $125,000 where it is established that the employee was exposed to a toxic substance at a DOE facility and that the exposure was "at least as likely as not" a significant factor in causing, contributing to, or aggravating the illness and death of the employee. Part E also provides $25,000 in additional benefits to eligible survivors, if the deceased employee had, as of his or her normal retirement age under the Social Security Act, at least ten aggregate calendar years of wage loss of at least 50 percent of his or her baseline wage. If an employee had twenty or more such years, the additional amount paid to an eligible survivor may increase to $50,000. The maximum Part E compensation benefit for a survivor is $175,000.

Funding

DOL funding covers direct and indirect expenses to administer the Washington, D.C. National Office; five Final Adjudication Branch Offices; four DEEOIC District Offices in Seattle, Washington; Cleveland, Ohio; Denver, Colorado; and Jacksonville, Florida; and eleven Resource Centers operated by a contractor. A private contractor processes medical bills to reduce overhead and to increase program efficiency. In FY 2011, DOL spent $51.5 million under Part B and $73.7 million under Part E to administer the EEOICPA. These funds supported 241 full-time equivalent (FTE) staff for Part B and 230 FTE for Part E. Additional funds in the amount of $0.2 million under Part B and $0.8 million under Part E supported the Office of the Ombudsman position. Funding for the NIOSH radiation dose reconstruction process and the Advisory Board on Radiation and Worker Health was provided in the Health and Human Services appropriation.

Adjudication of Claims

In FY 2011, DEEOIC continued to receive a substantial number of new claims, creating a total of 6,303 new cases (9,981 claims) for living or deceased employees under Part B, and 5,674 new cases (7,441 new claims) under Part E.

Each case represents an employee whose illness is the basis for a claim; however, a single case may contain multiple survivor claims. Under the EEOICPA, workers or their survivors may qualify for Part B benefits only, Part E benefits only, or benefits under both Parts B and E. Claims and cases under Parts B and E are counted separately (that is, if a claimant is potentially eligible under both Parts, his or her claim will be counted under both Part B and Part E).

Under the EEOICPA, the Secretary of HHS is responsible for adding new classes of employees to the SEC where a complete dose reconstruction cannot be performed by NIOSH. The SEC is a mechanism by which claimants, who have one of the 22 cancers identified in the law, receive a presumption that their cancer is the result of their employment; such a presumption expedites the adjudication process by eliminating the need for a dose reconstruction. The EEOICPA initially designated certain employees at four sites (the three gaseous diffusion plants in Oak Ridge, Tennessee; Paducah, Kentucky; and Portsmouth, Ohio; and an underground nuclear test site on Amchitka Island, Alaska) as belonging to the SEC. As of September 30, 2011, NIOSH had added 78 additional classes of employees to the four statutory classes in the SEC, which combined represent workers at 62 facilities. During FY 2011, NIOSH added 13 classes of employees at the following facilities: Blockson Chemical Company in Joliet, Illinois; Ames Laboratory in Ames, Iowa; Revere Copper and Brass in Detroit, Michigan; Simonds Saw and Steel Company in Lockport, New York; BWX Technologies, Inc., in Lynchburg, Virginia; Texas City Chemicals, Inc., in Texas City, Texas; Linde Ceramics Plant in Tonawanda, New York; Grand Junction Operations Office in Grand Junction, Colorado; Wah Chang Facility in Albany, Oregon; Norton Company in Worcester, Massachusetts; Vitro Manufacturing in Canonsburg, Pennsylvania; Sandia National Laboratories in Albuquerque, New Mexico; and General Electric Company in Evendale, Ohio.

When a new class of employees is added to the SEC, DOL reviews all affected cases and makes a determination on whether the employee in question meets the criteria for inclusion in the new class. Any previously denied claim with employment meeting the new definition is reopened for additional development and a new recommended decision.

For claims filed under Part E, claims examiners use an array of tools including the Site Exposure Matrices (SEM) database that provides information about substances used in specific DOE facilities and the occupational illnesses and health effects associated with exposure to specific toxic substances. District offices also rely on DOE's records that contain employees' radiological dose records, incident or accident reports, industrial hygiene or safety records, personnel records, job descriptions, medical records, and other records that prove useful in determining causation. Additionally, a referral to a District Medical Consultant (DMC) may be required to determine a medical diagnosis, whether or not an illness is indicative of toxic substance exposure versus a natural medical process, whether there is a causal relationship between claimed illnesses and the occupational exposure history, or to evaluate an employee's cause of death. DMC referrals may also be necessary for impairment evaluations and for opinions regarding the causal relationship between a covered illness and claimed wage-loss. As of September 30, 2011, 78 board-certified physicians were enrolled as DMC contractors for the program. Claims may also be referred to a health physicist, industrial hygienist, or toxicologist for review when a scientific determination regarding the case is required.

Recommended Decisions and Final Decisions. The DEEOIC district offices process EEOICPA claims to the "recommended decision" stage: for each claim, they issue a recommended decision to approve or deny the claim. Each recommended decision made by the district office must be reviewed by the Final Adjudication Branch (FAB), which ensures that the EEOICPA's requirements, program policies, and procedures are followed and issues a final decision. Before making a final decision, the FAB considers any challenges brought by the claimant through either a review of the written record or an oral hearing. During FY 2011, the FAB conducted 1,371 reviews of the written record and oral hearings for 1,284 claimants. For each claim, the FAB reviews the evidence of record, the recommended decision, and any objections/testimony submitted by the claimant or his/her representative, and issues a final decision either awarding or denying benefits. The FAB may also remand a decision to the district office, if further development of the case is necessary. A claimant may challenge the FAB's final decisions by requesting reconsideration or reopening of the claim, or may file a petition for review of a final decision with the appropriate U.S. District Court. While Part B and Part E of the EEOICPA each have unique eligibility criteria, DEEOIC usually adjudicates all claims for benefits under Parts B and E as a unified claim for greater efficiency, and where possible,

decisions are issued that address both Parts B and E simultaneously. However, partial decisions may also be issued in cases where benefits under some provisions can be awarded, but claims under other provisions require further development.

During FY 2011, DEEOIC district offices issued 13,010 Part B claim-level recommended decisions and 11,444 Part E claim-level recommended decisions. Further, the FAB issued 13,337 Part B claim-level final decisions and 10,904 Part E claim-level final decisions. DOL approved benefits in 54.5 percent of covered Part B claims and 53.1 percent of covered Part E claims that were issued a final decision during FY 2011. Covered applications are those claims which met the basic eligibility requirements of covered employment and a covered occupational illness under Part B, or for covered employment and survivorship under Part E.

Outreach Activities

DEEOIC's staff continues to sponsor outreach activities to disseminate information about the EEOICPA and provide one-on-one assistance to claimants in applying for benefits.

Resource center and district office personnel supported the collaborative outreach efforts led by DEEOIC's Branch of Outreach and Technical Assistance (BOTA) in the national office. During FY 2011, as additional classes of employees were added by the Secretary of HHS to the SEC, DOL sponsored six town hall meetings and traveling resource centers in: Amherst, New York (meetings in both October 2010 and July 2011); Joliet, Illinois; Ames, Iowa; Grand Junction, Colorado; and Galveston, Texas. During these town hall meetings and traveling resource centers, DEEOIC staff presented details about new SEC classes at Bethlehem Steel, Blockson Chemical Company, Ames Laboratory, the Grand Junction Operations Office, Linde Ceramics Plant, Simonds Saw and Steel Company, and Texas City Chemicals, Inc. Over 400 individuals attended these town hall meetings and traveling resource centers, and as a result of these meetings resource center staff submitted 62 new claims to DOL for adjudication. Further, in response to large attendance at past town hall meetings held in the Navajo Nation, DEEOIC conducts bi-monthly meetings in Shiprock, New Mexico and Kayenta, Arizona, to provide in-person assistance to Navajo and other EEOICPA claimants.

Working with DOE's Former Worker Medical Screening Program, the Office of the Ombudsman for the EEOICPA, HHS' NIOSH, and the Office of the Ombudsman to NIOSH under the EEOICPA, DEEOIC staff continued to participate in a joint outreach task group to provide information and clarification regarding the EEOICPA to former nuclear weapons workers and their families. During FY 2011, DEEOIC staff sponsored a joint outreach task group town hall meeting and traveling resource center in Bolingbrook, Illinois, which more than 100 individuals attended. The purpose of this meeting was to assist former Fermi National Accelerator Laboratory and Argonne National Laboratory East workers with any questions they may have concerning the EEOICPA or how to file a claim for benefits. As a result of the event, resource center staff submitted 10 new claims to DOL for adjudication. DEEOIC staff also attended additional joint outreach task group town hall meetings in Kansas City, Missouri; Oak Ridge, Tennessee; and Aiken, South Carolina, and at the request of the Office of the Ombudsman, DEEOIC national office, district office, and resource center staff continued to participate in all Ombudsman sponsored outreach initiatives by providing claim status updates to claimants, taking new claims, and answering questions as needed.

Other examples of DEEOIC outreach activities conducted during FY 2011 include meetings with local governments and chambers of commerce, presentations to personnel at covered facilities and unions, and other community initiatives. Additionally, during FY 2011 the district offices received 149,497 phone calls and the FAB received 5,187 phone calls. Nearly all calls that required a return call were returned within two business days.

During FY 2011, DEEOIC issued press releases informing individuals who worked at covered EEOICPA facilities where less than 50 claims have been filed in Chicago, Massachusetts, Missouri, Alabama, Ohio, and Wisconsin of

the benefits that may be available to them under the EEOICPA. Altogether this effort included notification to potential claimants at 75 facilities.

Services to Claimants

The Departments of Labor, Health and Human Services, Energy, and Justice provide assistance to current and potential claimants and surviving family members, to help them understand the EEOICPA and claimants' rights and obligations under the program. DOL has implemented several strategies to assist workers and survivors in filing claims, collecting evidence to support claims, and understanding the adjudication process from start to finish:

Website. DEEOIC's website provides important information about the statute and regulations governing Parts B and E of the EEOICPA, and gives claimants access to brochures, claim forms, and electronic filing of claims. During FY 2011, eight policy bulletins and eleven final circulars concerning the administration of the EEOICPA were posted to the site. Further, the website also provides DEEOIC's Procedure Manual; the locations and times of town hall meetings; district office and resource center locations and contact numbers; press releases; and medical provider enrollment information. Claimants can also view DEEOIC and NIOSH weekly web statistics; payment statistics at the national, state, and facility levels; and the searchable database of DEEOIC final decisions. The website also provides links to DOE, DOJ, and NIOSH's websites and toll-free numbers where additional information and assistance can be obtained.

During FY 2011, in an effort to be as accessible and transparent as possible to the claimant community, DEEOIC staff continued to add new information to its website, providing the public with additional information concerning DEEOIC's administration of the EEOICPA. This new information included the posting of the following three new brochures on DEEOIC's website: "Eligibility for Compensation and Benefits under the EEOICPA," which describes the eligibility requirements and compensation available under Parts B and E of the EEOICPA; "What Happens After an EEOICPA Recommended Decision?" which explains the actions a claimant should take after receiving a recommended decision from one of DEEOIC's four district offices; and "Agency Role/Programs for Assisting DOE Nuclear Weapons Workers," which describes what the joint outreach task group is and the role of each of the members. DEEOIC staff also updated the following brochures to reflect current policies and procedures: "Chronic Beryllium Disease and Beryllium Sensitivity under the EEOICPA;" "How Do I Qualify for an Impairment Award Under Part E of the EEOICPA;" and, "Wage-Loss Benefits Under Part E of the EEOICPA".

In June 2011, DEEOIC launched an online web-based page, the Claimant Status Page, which allows claimants access to limited claims information from the Energy Case Management System (ECMS) electronic claims database utilized by DEEOIC claims examiners. The Claimant Status Page allows a claimant to access certain information contained in his or her claim under the EEOICPA, including claimed medical condition(s), worksite locations, most recent claim actions, payment information, and current case location. Claimants are provided with an individual claim identification number to gain access to their claim information and to prevent access by other individuals to a claimant's specific claim information.

Web-Ex Video Conferencing System. During FY 2011, the DEEOIC introduced Web-Ex, which is a Cisco Systems platform that provides live stream video conferencing capability, as a means of upgrading and modernizing the administration of the EEOICPA. Web-Ex allows the DEEOIC Final Adjudication Branch (FAB) hearing representatives to conduct oral hearings in "real time" with DEEOIC claimants across the country, without traveling. DEEOIC has established Web-Ex systems in all four district offices, the National Office FAB, and the National Office Headquarters in Washington, D.C. In addition, DEEOIC has established Web-Ex systems in four of the eleven resource centers: Oak Ridge, Paducah, Portsmouth, and Savannah River; with plans to expand to other resource centers in Hanford, New York, and Las Vegas. Because the FAB hearing representatives are no longer required to travel to locations near Web-Ex sites, this has resulted in huge savings in terms of travel costs and person-hours.

Moreover, DEEOIC is also using the Web-Ex system to conduct its bi-weekly staff meetings (with all district office

and FAB managers) and to continue claims examiner training in the areas of medical development, Site Exposure Matrices, and toxicology.

Unified Procedure Manual. During FY 2011, the DEEOIC continued to evaluate and assess its policies and procedures contained in the EEOICPA Procedure Manual, which contains an overview of the DEEOIC program and provides policies and procedures for the processing and adjudication of claims under the EEOICPA. Throughout FY 2011, the DEEOIC updated portions of the Procedure Manual, incorporating updates in policy directives, when appropriate. The EEOICPA Procedure Manual is available to the public via the DEEOIC website.

Role of Resource Centers. DEEOIC's network of Resource Centers (RCs) at major DOE sites provides an initial point-of-contact for workers interested in the program and in-person and toll-free telephone-based assistance to individuals filing claims under the EEOICPA. In FY 2011, the RC contractor had 61 employees at 11 sites to assist claimants in completing necessary claim forms and gathering documentation that can support their claims.

The RC staff assists with initial claim-filing and Part E occupational history development and forwards all claims and associated documentation to the appropriate district offices. During FY 2011, the RCs helped claimants file 12,446 claims, received more than 91,000 telephone calls, conducted nearly 69,000 follow-up actions with claimants, and completed 5,600 occupational history interviews. RC staff also supported DEEOIC's six town hall meetings and traveling resource centers as well as Joint Outreach Task Group events in locations around the country.

The RC staff also continued to assist claimants with the medical bill payment process, preparation of requests for pre-authorized medical travel, and submission of claims for reimbursement related to medical travel. During FY 2011, the RC staff made nearly 25,000 contacts related to medical bills. RC staff also enrolled 279 new medical providers into the program.

Center for Construction Research and Training. The Center for Construction Research and Training (CPWR), formerly called the Center to Protect Workers' Rights, continued its work under contract with the DEEOIC. The CPWR has been tasked with researching and providing employment information for construction/trade workers (who worked at DOE, AWE, or beryllium vendor facilities) in cases where DOL has been unable to obtain reliable information through other available resources. In FY 2011, CPWR provided responses to 901 requests for information. CPWR also maintains a website-accessible database that identifies and confirms the existence of contractual relationships between contractor and subcontractor employers and certain covered facilities. This database is available to DEEOIC claims examiners.

Site Exposure Matrices (SEM) Database. In FY 2011, DEEOIC continued to enhance its database of "site exposure matrices" to assist claims examiners in determining the types of chemicals and toxic substances that existed at the major DOE facilities, easing claimants' evidentiary burdens and speeding the claims process.

As of September 30, 2011, SEM housed information on 11,153 toxic substances/chemicals used at 116 DOE sites, 4,170 uranium mines, 47 uranium mills, and 17 uranium ore buying stations covered under the EEOICPA. During FY 2011, the SEM project team updated 56 of 116 SEM matrices for DOE facilities and added a total of 1,565 new toxic substances to the SEM database as a result of public and worker input.

DOL continued to provide funding to support further development and expansion of the National Library of Medicine (NLM) Haz-Map Occupational Health Database. This database contains information about the possible effects of exposure to hazardous agents that assists DOL in developing and adjudicating claims filed under Part E of EEOICPA, and relieves claimants of some of the burden of proof in their claims. The funding provided in FY 2011 allowed NLM to complete 673 new health/chemical profiles for its Haz-Map database.

In FY 2011, DEEOIC also completed its expansion of the public SEM website, an effort that began in May 2010. By making the information in the SEM public, DEEOIC is making the Part E process more transparent. The final six additions to the public website made this year include the Lawrence Livermore National Laboratory (Livermore,

California), the Oak Ridge Gaseous Diffusion Plant (also known as the East Tennessee Technology Park, or K-25, in Oak Ridge, Tennessee), the Y-12 Plant (Oak Ridge, Tennessee), the Paducah Gaseous Diffusion Plant (Paducah, Kentucky), the Pantex Plant (Amarillo, Texas), and the Pinellas Plant (Clearwater, Florida).

During FY 2011, DEEOIC also sought an agreement, which was reached right at the end of the year, with the National Academy of Sciences (NAS) to perform a scientific review of the Site Exposure Matrices. Under the agreement, NAS will convene a panel of experts to review the scientific accuracy of occupational disease links to toxic substances present at various locations within EEOICPA-covered facilities. The experts will evaluate other exposure databases to identify ways to augment disease associations. They also will evaluate the National Institutes of Health's Haz-Map database, which is an occupational toxicology system that links jobs and hazardous tasks with occupational diseases and their symptoms, and provides information for the SEM website. NAS will compile its findings into a report. The review period, including producing the report, is expected to last 18 months.

Database Systems. DEEOIC's Branch of Automated Data Processing Systems (BAS) is responsible for providing DEEOIC's internal and external customers an entire array of secure and reliable computer services and support. This includes the support of the Energy Case Management System (ECMS) which serves as a repository for data related to claims adjudication activities and compensation benefits. During FY 2011, development continued for the creation of the integrated, modernized and expanded mission-critical case management system. The new unified system, called the Energy Compensation System (ECS), will replace the separate Part B and Part E management systems that have supported DEEOIC's users since Part B's (2001) and Part E's inception. ECS will eventually replace the existing ECMS during FY 2012. These enhancements ensure the effectiveness of administering compensation benefits to claimants to once again meet and exceed strategic and operational goals.

Ombudsman. Under the Defense Authorization Act for Fiscal Year 2005, Public Law 108-375, 42 U.S.C. § 7385s-15, signed into law on October 28, 2004, an Office of the Ombudsman was created for a period of three years, to provide information to claimants, potential claimants, and other interested parties on the benefits available under Part E of the EEOICPA and how to obtain those benefits. In January 2008, the National Defense Authorization Act of 2008 extended the term of this office to October 28, 2012; on October 28, 2009, the National Defense Authorization Act of 2009 expanded the authority of the Office to also include Part B of the EEOICPA. The Office of the Ombudsman, within the Department of Labor but independent from OWCP, reports annually to Congress concerning complaints, grievances, and requests for assistance received during the calendar year covered by the report. DEEOIC continues to work directly with the Ombudsman's office to promptly resolve any issues and concerns stemming from the Ombudsman's findings.

Government Performance Results Act

DOL is committed to measuring its outcomes and maintaining accountability for achieving the fundamental goals of the EEOICPA. High performance standards, focusing on moving EEOICPA claims rapidly through the initial and secondary adjudication stages, have been established, and DOL has maintained a strong record of meeting its key performance goals under the Government Performance Results Act (GPRA).

DEEOIC's three indicators achieved under DOL's GPRA goal to "provide good jobs for everyone through income maintenance" were as follows:

- DEEOIC began to measure average days for completion of initial processing of claims in FY 2007, as that measure is a good indicator of overall effectiveness in delivering initial services to claimants. During FY 2010, a goal of 120 days was set for Part B claims and DEEOIC exceeded this goal by taking an average of 97 days to

process initial claims. In FY 2011, a goal of 110 days was set, and DEEOIC exceeded this goal by taking an average of only 91 days to process initial claims under Part B of the EEOICPA.

- During FY 2010, a target of 160 days was set for Part E claims, and DEEOIC exceeded this goal by taking an average of 125 days to process initial claims. In FY 2011, a target of 145 days was set. Again, DEEOIC exceeded its goal as 101 days on average were needed to process initial claims under Part E of the EEOICPA.

- Timely processing also extends to final decisions issued by DEEOIC's FAB. The timeliness standards for both Part B and Part E claims are to complete final decisions within 180 days where there is a hearing and within 75 days where there is no hearing. In the processing of Part B and Part E final decisions through the efforts of the FAB, 95 percent of Part B and Part E decisions in FY 2011 were within the program standards, in excess of the goal of 92 percent.

Central Medical Bill Processing

The OWCP central bill processing service continued to provide a high level of service to eligible claimants and providers in FY 2011. Timely and accurate medical bill processing is critical in the administration of the EEOICPA. In FY 2011, DEEOIC avoided $10 million in costs during the year due to further improvements in the editing of bills. These savings were achieved without impacting on services to claimants.

By the end of FY 2011, the bill processing vendor had processed 412,779 EEOICPA bills and handled 44,704 telephone calls. Authorizations for medical treatment were processed in an average of 1.1 workdays and 99.4 percent of bills were processed within 28 days. Enrollment of 4,224 new providers brought the total of enrolled providers for EEOICPA services to 130,408.

Program Evaluation

In FY 2010 DEEOIC hired a contractor to conduct a customer service satisfaction survey to measure the perceptions of claimants who had filed a claim under the EEOICPA. Claimants who had been through the claims process and received a final decision to award or deny compensation and benefits were asked to assess their satisfaction with the service they received as part of the claims process. DEEOIC mailed surveys to 3,070 claimants and achieved a response rate of 30.6 percent with 865 respondents. Of the 865 people completing the survey, 588 respondents provided additional feedback in the form of written comments. An analysis of the survey was completed on June 29, 2010. The survey indicated that 97 percent of individuals who were awarded benefits and 61 percent of those denied benefits would recommend the program to a friend.

In FY 2011, DEEOIC analyzed the full results of the survey in order to further enhance internal and external processes and to improve the delivery of benefits and other services to claimants. Based on the results of the customer satisfaction survey, DEEOIC initiated the following changes during FY 2011:

- Updated all DEEOIC program brochures to improve the communication of information.

- Created fact sheets describing the hearing process and rights to object that accompany recommended decisions to deny.

- Updated wage-loss and impairment handouts.

- Revised the DEEOIC recommended decision format to include an analysis section.

- Completed medical bill training for the DEEOIC District Office staff.

- Changed DEEOIC program goals to include a new measure of time between the filing of a claim and the issuance of a final decision, in an effort to shorten the claim process.

- Added a new performance measure to claims examiners' performance standards providing a framework for feedback and follow-up with claimants.

In FY 2011, the DEEOIC Medical Director reviewed the credentials of the current network of medical specialists who assist in the review of complex EEOICPA cases. The updated DMC credentials were posted on the DEEOIC website. The Medical Director continued the review process utilized by DEEOIC with respect to obtaining DMC opinions for adjudication of cases, reviewing the qualifications of DMC's who work with DEEOIC, and evaluating DMC reports for consistency and quality. DEEOIC continued quarterly DMC teleconferences which addressed procedural and medical issues, new guidance, and other issues of common interest to the DMCs. The DMC handbook was updated and served as a resource for DMCs.

Also in FY 2011, DOL's Solicitor's Office advised DEEOIC it could no longer use a Memorandum of Agreement for DMC services and recommended the use of a formal contract to engage DMC services. A solicitation was sought for a contractor to administer DMC services.

Litigation

DEEOIC strives in every case to administer the Energy program in accordance with the law and governing regulations. During FY 2011, one U.S. District Court published a decision issued in a case arising under Part E of EEOICPA. Important points from that case are summarized below.

Finality and the 60-day Limitation Period for Part E. In *Barrie v. U.S. Department of Labor*, 805 F.Supp.2d 1140 (D. Colo. 2011), the plaintiff filed a petition seeking court review of the denial of his claim for wage-loss benefits under Part E of EEOICPA. FAB had denied the plaintiff's claim on September 30, 2010, and also denied his request for reconsideration on March 3, 2011. The plaintiff next requested that his claim be reopened, but this request was denied by the Director of DEEOIC on April 12, 2011. The plaintiff filed his petition with the court on May 3, 2011, which was *more* than 60 days after FAB had denied his request for reconsideration of its earlier decision denying his wage-loss claim, but *less* than 60 days after his reopening request was denied, and argued that: (1) FAB's September 30, 2010 decision did not become "final" until his subsequent request to have his wage-loss claim reopened was denied on April 12, 2011, and therefore the time for filing his petition with the court did not begin to run until that later date; and (2) the 60-day filing requirement of 42 U.S.C. § 7385s-6(a) is not jurisdictional in nature and therefore may be equitably tolled.

In its decision, the court ruled that the plaintiff's request to have his wage-loss claim reopened, and the Director's denial of that request, was "irrelevant to the finality of Defendant's denial of his claim and his ability to seek judicial review." The court instead held that, according to the regulatory adjudication scheme, the FAB decision to deny the plaintiff's claim became final when FAB subsequently denied his timely request for reconsideration, and since the plaintiff did not file his petition with the court until 61 days later, it lacked jurisdiction to review the denial of his wage-loss claim. Furthermore, the court, citing the separation of powers, ruled that EEOICPA's statute of limitations was jurisdictional in nature, and therefore a court "may not apply equitable doctrines in circumvention of this express Congressional limitation" in 42 U.S.C. § 7385s-6(a).

ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT				
	Part B		Part E [1]	
	FY 2010	FY 2011	FY 2010	FY 2011
Number of Employees (FTE Staffing Used)	285	241	256	230
Administrative Expenditures [2]	$53.2 M	$51.5 M	$74.1 M	$73.7 M
Claims Created	10,194	9,981	8,677	7,441
Recommended Decisions (Covered Applications)	12,439	13,010	11,197	11,444
Final Decisions (Covered Applications)	10,797	13,337	10,867	10,904
Number of Claims Approved (Final)	5,748	7,264	6,330	5,791
Total Lump Sum Compensation Payments [3]	$448.7 M	$573.5 M	$381.0 M	$338.6 M
Number of Medical Bill Payments	262,417	317,700	25,957	34,007
Total Medical Payments [4]	$200.5 M	$300.0 M	$11.8 M	$18.1 M

[1] Part E became effective during FY 2005 (October 28, 2004).

[2] Includes Department of Labor expenditures only; beginning in FY 2009, funding for the Department of Health and Human Services responsibilities under the EEOICPA are provided for in that agency's appropriation. During FY 2011, funding of $0.2 million for Part B ($0.4 million in FY 2010) and $0.8 million for Part E ($0.5 million in FY 2010) for the Office of the Ombudsman is excluded.

[3] Excludes payments made by DOL for Department of Justice (DOJ) Radiation Exposure Compensation Act (RECA) Section 5 claims. DOL serves as a pass through and utilizes the compensation fund established under EEOICPA for DOJ's payments of $100,000 to qualifying Section 5 RECA claimants as provided for in 42 U.S.C. § 7384u(d). These payments totaled $29.1 million in FY 2010 and $30.0 million in FY 2011, respectively.

[4] Part B medical payments represent payments made for cases accepted under both Part B and Part E. Part E medical payments represent payments made for Part E only.

Appendix

Page

Note: Unless otherwise stated, the financial information in the appendix tables below may differ from what is reported in the Department of Labor's Consolidated Financial Statement. These differences are due to accrual versus cash basis financial reporting requirements and adjustments made during statement compilation.

Table A-1
Federal Employees' Compensation Rolls, FY 2002 - FY 2011
(Cases at End-of-Year)

	Fiscal Year									
Roll Type	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Periodic Roll	56,751	58,621	57,817	60,709	50,362	51,125	50,263	49,672	49,517	49,488
Long-Term Disability	51,092	53,099	52,367	55,257	44,910	46,258	45,604	45,162	45,263	45,382
Death	5,659	5,522	5,450	5,452	5,452	4,867	4,659	4,510	4,254	4,106

Table A-2
Federal Employees' Compensation Program
Summary of Claims Activity, FY 2002 - FY 2011

Claim Activity	Fiscal Year 2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
INCOMING CASES										
Cases Created	158,118	168,174	162,965	151,690	139,874	134,360	134,013	129,690	127,526	121,290
Traumatic	132,250	142,325	138,521	129,427	119,082	114,592	115,715	112,640	111,121	105,688
No Lost Time	80,439	84,368	80,018	74,071	67,127	64,896	66,812	64,130	61,067	56,412
Lost Time	51,811	57,957	58,503	55,356	51,955	49,696	48,903	48,510	50,054	49,276
Occupational Disease	25,739	25,747	24,320	22,114	20,592	19,633	18,190	16,951	16,300	15,501
Fatal Cases	129	102	124	149	200	135	108	99	105	101
Wage-Loss Claims Initiated	23,193	24,245	24,189	21,455	19,819	19,104	19,187	18,808	19,861	20,239
HEARINGS AND REVIEW										
Total Requests for Hearing	6,820	6,751	8,132	6,757	6,241	6,556	6,584	6,438	6,501	6,739
Total Hearing Dispositions	6,272	6,743	7,682	6,961	7,424	7,581	6,789	7,085	6,758	6,991

Table A-3
Federal Employees' Compensation Program Obligations, FY 2002 - FY 2011
($ thousands)

Type of Obligation	Fiscal Year									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Obligations	$2,418,364	$2,475,108	$2,568,390	$2,602,815	$2,553,930	$2,707,196	$2,800,284	$2,874,754	$3,015,333	$3,137,445
Total Benefits	2,307,942	2,345,472	2,434,609	2,476,479	2,418,796	2,563,055	2,657,634	2,732,577	2,857,806	2,983,866
Compensation Benefits	1,509,275	1,556,845	1,600,501	1,664,405	1,621,357	1,684,248	1,736,649	1,747,650	1,807,450	1,931,505
Medical Benefits	667,797	658,121	703,571	672,006	668,205	743,124	781,594	847,373	912,796	913,141
Survivor Benefits	130,870	130,506	130,537	140,068	129,234	135,683	139,391	137,554	137,560	139,220
Total Administrative Expenditures	110,422	129,636	133,781	126,336	135,134	144,141	142,650	142,177	157,527	153,579
Salaries and Expenses	81,210	86,358	86,253	86,811	88,435	90,113	89,416	90,049	98,116	98,158
Fair Share	29,212	43,278	47,528	39,525	46,699	54,028	53,234	52,128	59,411	55,421

Table A-4
Federal Employees' Compensation Program Chargeback Costs, by Major Federal Agency
CBY 2002 - CBY 2011
($ thousands)

Federal Agency	Chargeback Year 1/ 2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Costs	$2,219,448	$2,323,288	$2,339,782	$2,334,194	$2,440,711	$2,494,096	$2,572,864	$2,669,115	$2,697,107	$2,875,430
U.S. Postal Service	785,199	846,876	852,945	840,141	884,078	924,138	978,629	1,055,221	1,101,200	1,240,014
Department of the Navy	248,250	245,461	245,145	237,791	244,318	244,037	242,440	240,004	234,251	236,471
Department of Veterans Affairs	151,612	157,315	155,391	156,170	164,091	166,087	175,637	179,922	182,212	186,254
Department of the Army	174,832	181,298	177,250	174,660	180,248	178,993	179,503	181,775	177,236	176,941
Department of Homeland Security	N/A	83,975	121,089	138,342	156,734	158,529	161,070	164,611	160,502	166,514
Department of the Air Force	132,538	135,509	129,229	124,516	126,663	130,298	131,059	131,301	129,323	135,596
Department of Justice	95,620	66,131	74,011	80,090	89,156	94,395	98,825	104,772	104,573	109,850
Department of Transportation	101,716	94,682	92,659	92,687	92,830	93,609	97,931	99,251	97,687	97,457
Department of Agriculture	69,563	72,312	69,245	68,681	70,185	70,802	72,869	73,670	72,876	72,621
Department of Defense	63,888	65,429	63,816	62,996	65,460	62,630	60,737	63,051	63,581	65,331
All Other Agencies	396,230	374,299	359,003	358,120	366,948	370,578	374,164	375,537	373,666	388,381

1/ A year for chargeback purposes is from July 1 through June 30.

Table B-1
Part C Black Lung Claims Adjudications at the District Director Level, FY 2011

Type of Claim	PDO's Issued 1/	Approval Rate
TRUST FUND	651	
Approved	110	16.90%
Denied	541	
RESPONSIBLE OPERATORS	5,530	
Approved	645	11.66%
Denied	4,885	
TOTAL DECISIONS	6,181	
Total Approved	755	12.21%
Total Denied	5,426	

1/ PDO is "Proposed Decision and Order".

Table B-2
Distribution of Part C Black Lung Claims and Disbursements, by State, FY 2011

State	Total Claims Received 1/	MBO Claims 2/	In Payment 3/	Total Benefits ($ 000) 4/
Alabama	35,227	21	629	$5,331
Alaska	153	0	7	59
Arizona	2,179	2	91	771
Arkansas	3,860	1	113	958
California	6,505	3	146	1,237
Colorado	7,126	4	274	2,322
Connecticut	1,006	0	39	331
Delaware	789	1	41	347
District of Columbia	287	0	9	76
Florida	12,043	26	526	4,458
Georgia	1,707	2	122	1,034
Hawaii	16	0	0	0
Idaho	253	0	11	93
Illinois	32,109	14	718	6,086
Indiana	18,272	16	519	4,399
Iowa	5,158	1	130	1,102
Kansas	2,186	1	32	271
Kentucky	98,248	388	4,019	34,066
Louisiana	357	0	10	85
Maine	45	0	1	8
Maryland	6,722	11	218	1,848
Massachusetts	245	0	13	110
Michigan	10,549	8	250	2,119
Minnesota	147	0	4	36
Mississippi	371	1	16	136
Missouri	4,670	0	106	898
Montana	861	2	22	186
Nebraska	130	0	2	16
Nevada	443	1	29	246
New Hampshire	27	0	3	24
New Jersey	4,320	4	171	1,449
New Mexico	2,461	1	73	619
New York	4,047	0	124	1,051
North Carolina	3,699	13	271	2,297
North Dakota	160	0	3	24
Ohio	54,675	39	1,755	14,875
Oklahoma	3,809	4	87	737
Oregon	629	0	15	127
Pennsylvania	138,545	244	6,607	56,000
Rhode Island	40	0	2	16
South Carolina	998	3	99	839
South Dakota	54	0	4	36
Tennessee	22,026	59	783	6,637
Texas	1,770	4	75	636
Utah	4,256	6	173	1,466
Vermont	50	0	3	24
Virginia	46,529	240	2,796	23,698
Washington	1,593	2	38	322
West Virginia	117,321	375	5,529	46,865
Wisconsin	457	0	16	136
Wyoming	2,667	0	98	831
All Other	452	1	7	59
TOTAL	**662,249**	**1,498**	**26,829**	**$227,397**

1/ All filings since July 1, 1973, including terminated and nonapproved claims.
2/ Active Medical Benefits Only (MBO) claims as of 9/30/11.
3/ Active claims in payment status, excluding MBO claims, as of 9/30/11.
4/ Disbursements of income and medical benefits for all claims, including claims paid by the Trust Fund and claims in interim pay status.
Note: Data in column no. 1 may not be consistent with changes from previous years due to a change in computer systems.

Table B-3
Part C Black Lung Claims, by Class of Beneficiary, FY 2002 - FY 2011 1/

Class of Beneficiary	Number of Beneficiaries 2/									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Primary Beneficiaries:										
Miners	16,395	14,773	13,398	12,012	10,857	9,744	8,654	7,699	6,967	6,633
Widows	34,236	32,615	30,810	29,110	27,366	25,556	23,690	21,913	20,495	19,014
Others	1,221	1,238	1,247	1,248	1,258	1,241	1,230	1,214	1,209	1,182
TOTAL PRIMARY BENEFICIARIES	51,852	48,626	45,455	42,370	39,481	36,541	33,574	30,826	28,671	26,829
Dependents of Primary Beneficiaries:										
Dependents of Miners	12,432	11,131	10,020	9,004	8,088	7,205	6,442	5,726	5,202	5,028
Dependents of Widows	1,077	1,052	1,006	944	874	840	777	723	681	647
Dependents of Others	386	353	238	213	146	140	132	122	113	110
TOTAL DEPENDENTS	13,895	12,536	11,264	10,161	9,108	8,185	7,351	6,571	5,996	5,785
TOTAL, ALL BENEFICIARIES	65,747	61,162	56,719	52,531	48,589	44,726	40,925	37,397	34,667	32,614

1/ As of September 30 of each year.

2/ Active claims, including those paid by a RMO, cases paid by the Trust Fund, cases in interim pay status, cases that are being offset due to concurrent Federal or state benefits, and cases that have been temporarily suspended. Does not include MBO beneficiaries.

Table B-4
Department of Labor Part C Black Lung Benefits Program Obligations, FY 2002 - FY 2011
($ thousands)

	Fiscal Year									
Type of Obligation	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Obligations	$1,034,096	$1,046,303	$1,053,246	$1,061,698	$1,060,006	$1,068,295	$1,070,958	$7,152,627	$661,798	$745,975
Total Benefits 1/	384,234	370,389	346,864	329,933	307,067	291,310	273,232	254,987	238,423	227,397
Income Benefits 2/	320,039	307,371	292,555	279,965	265,365	252,020	235,347	221,298	207,801	193,038
Medical Benefits 3/	64,196	63,018	54,309	49,968	41,702	39,290	37,885	33,689	30,622	34,359
Administrative Costs 4/	54,273	55,332	55,803	56,872	57,975	59,772	58,257	57,712	58,618	57,513
Interest Charges 5/	595,589	620,582	650,579	674,894	694,964	717,214	739,469	0	0	0
Bond Payments 6/								341,939	364,757	400,905
Principal								337,472	353,424	379,286
Interest								4,467	11,333	21,619
One-Yr. Obligation Pmts. 7/										60,160
Principal										60,000
Interest										160
Repayable Advances 8/	465,000	525,000	497,000	446,000	445,000	426,000	426,000	6,497,989	60,000	107,749
Cumulative Debt 9/	7,718,557	8,243,557	8,740,557	9,186,557	9,631,557	10,057,557	10,483,557	6,370,580	6,289,746	6,163,077
Principal								6,158,245	5,864,821	5,533,284
Capitalized Interest								212,335	424,925	629,793

1/ Excludes collections from responsible mine operators for benefits paid by Trust Fund on an interim basis, refunds for OWCP administrative costs paid, and other miscellaneous reimbursements.

2/ Monthly and retroactive benefit payments.

3/ Includes diagnostic and treatment benefits, and reimbursements to the UMWA Health and Retirement Funds.

4/ Administrative costs include support for DCMWC, Office of the Inspector General, Office of the Solicitor, Office of Administrative Law Judges, and Benefits Review Board within DOL, and reimbursements to the Department of Treasury and the Social Security Administration.

5/ Interest charges on repayable advances to the Trust Fund from the Department of Treasury.

6/ Scheduled repayments of principal and interest on zero-coupon bonds issued to refinance the BLDTF debt as mandated under the Emergecy Economic Statbilization Act of 2008 (EESA).

7/ Repayment of prior year advances, and interest on those advances, to the Treasury as required under EESA.

8/ Advances from the Department of Treasury. FY 2009 is a one-time non-repayable appropriation under the EESA. Beginning in FY 2010, EESA classifies these advances as one-year obligations that must be repaid to the Treasury.

9/ Shows the cumulative debt of the Trust Fund to the Department of Treasury. Starting in FY 2009, this debt includes principal and capitalized loan interest related to the zero-coupon bonds issued under EESA and payable to the Bureau of Public Debt.

Note: Detail may not add to totals due to rounding.

Table B-5
Monthly Part C Black Lung Benefit Rates, 1973 - 2011

Period	Benefit Rates by Type of Beneficiary			
	Claimant	Claimant and 1 Dependent	Claimant and 2 Dependents	Claimant and 3 or More Dependents
7/1/73-9/30/73	$169.80	$254.70	$297.10	$339.50
10/1/73-9/30/74	177.60	266.40	310.80	355.20
10/1/74-9/30/75	187.40	281.10	328.00	374.80
10/1/75-9/30/76	196.80	295.20	344.40	393.50
10/1/76-9/30/77	205.40	308.10	359.50	410.80
10/1/77-9/30/78	219.90	329.80	384.80	439.70
10/1/78-9/30/79	232.00	348.00	405.90	463.90
10/1/79-9/30/80	254.00	381.00	444.50	508.00
10/1/80-9/30/81	279.80	419.60	489.60	559.50
10/1/81-9/30/82	293.20	439.80	513.10	586.40
10/1/82-12/31/83	304.90	457.30	533.60	609.80
1/1/84-12/31/84 1/	317.10	475.60	554.90	634.20
1/1/85-12/31/86	328.20	492.30	574.30	656.40
1/1/87-12/31/87	338.00	507.00	591.50	676.00
1/1/88-12/31/88	344.80	517.20	603.40	689.60
1/1/89-12/31/89	358.90	538.30	628.10	717.80
1/1/90-12/31/90	371.80	557.70	650.60	743.60
1/1/91-12/31/91	387.10	580.60	677.40	774.10
1/1/92-12/31/92	403.30	605.00	705.80	806.60
1/1/93-12/31/93	418.20	627.30	731.90	836.40
1/1/94-12/31/94	427.40	641.10	748.00	854.80
1/1/95-12/31/95	427.40	641.10	748.00	854.80
1/1/96-12/31/96	435.10	652.70	761.50	870.20
1/1/97-12/31/97	445.10	667.70	779.00	890.20
1/1/98-12/31/98	455.40	683.10	796.90	910.70
1/1/99-12/31/99	469.50	704.30	821.60	939.00
1/1/00-12/31/00	487.40	731.00	852.80	974.70
1/1/01-12/31/01	500.50	750.80	875.90	1,001.00
1/1/02-12/31/02	518.50	777.80	907.40	1,037.00
1/1/03-12/31/03	534.60	801.90	935.50	1,069.20
1/1/04-12/31/04	549.00	823.50	960.80	1,098.00
1/1/05-12/31/05	562.80	844.10	984.80	1,125.50
1/1/06-12/31/06	574.60	861.80	1005.50	1,149.10
1/1/07-12/31/07	584.40	876.50	1022.60	1,168.70
1/1/08-12/31/08	599.00	898.40	1048.10	1,197.90
1/1/09-12/31/09	616.30	924.50	1078.50	1,232.60
1/1/10-12/31/10	625.60	938.30	1094.70	1,251.10
1/1/11-12/31/11	625.60	938.30	1094.70	1,251.10

1/ These benefit rates include the additional one-half percent increase that was granted retroactive to January 1, 1984. The rates in effect prior to the retroactive payments (1/1/84 through 6/30/84) were: $315.60 for a claimant only; $473.30 for a claimant and 1 dependent; $552.20 for a claimant and 2 dependents; and, $631.10 for a claimant and 3 or more dependents.

Table B-6
Funding and Disbursements of the Black Lung Disability Trust Fund, FY 2011
($ thousands)

	Funding				Disbursements								
	Coal Excise	Treasury			Income	Medical Benefits		Total	Admin.	Interest on	Bond	One-Year Oblig.	
Month	Tax Revenue	Advances	Reimburse. 1/	Total	Benefits 2/	Diagnostic	Treatment 3/	Benefits	Costs	Advances	Payments 4/	Payments 5/	Total
October 2010	$7,730	$0	$1,001	$8,731	$16,471	$583	$2,110	$19,164	$4,178	$0	$0	$0	$23,342
November 2010	57,885	0	692	58,577	16,528	560	1,945	19,033	1,620	0	0	0	$20,653
December 2010	53,416	0	492	53,908	16,753	686	2,597	20,036	5,378	0	0	0	$25,414
January 2011	49,788	0	588	50,376	16,453	489	1,716	18,658	5,246	0	0	0	$23,904
February 2011	64,314	0	1,111	65,425	15,754	568	2,387	18,709	4,260	0	0	0	$22,968
March 2011	51,312	0	1,055	52,367	16,121	603	2,719	19,443	6,075	0	0	0	$25,518
April 2011	58,884	0	1,737	60,621	16,430	508	1,999	18,937	4,415	0	0	0	$23,352
May 2011	38,652	0	924	39,576	15,905	502	2,539	18,946	3,376	0	0	0	$22,322
June 2011	51,309	0	1,024	52,333	15,854	535	2,456	18,845	8,475	0	0	0	$27,320
July 2011	52,926	0	862	53,788	15,483	492	2,050	18,025	5,305	0	0	0	$23,330
August 2011	50,279	0	1,194	51,473	15,848	721	2,871	19,440	5,544	0	0	0	$24,984
September 2011	86,387	107,749	544	194,680	15,438	458	2,266	18,162	3,642	0	400,905	60,160	$482,868
TOTALS	$622,882	$107,749	$11,224	$741,855	$193,038	$6,705	$27,654	$227,397	$57,513	0	$400,905	$60,160	$745,975

1/ Reimbursements include collections from RMOs, and fines, penalties, and interest.

2/ Includes monthly and retroactive benefit payments.

3/ Treatment expenditures include reimbursements to the United Mine Workers' Health and Retirement Funds.

4/ Repayment of principal and interest on principal for the zero-coupon bonds issued to refinance the BLDTF debt under the Emergency Economic Stabilization Act of 2008 (EESA).

Table C-1
Total Industry Compensation and Benefit Payments Under LHWCA 1/
CY 2001 - CY 2010 2/
($ thousands)

	Calendar Year									
Payments By:	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Self-Insured Employers	$307,708	$310,940	$309,843	$322,520	$325,694	$368,744	$325,544	$340,336	$388,088	$408,534
Insurance Carriers	236,726	246,603	262,753	278,887	325,027	367,625	456,773	504,348	551,716	589,387
Total Payments	$544,434	$557,543	$572,596	$601,407	$650,721	$736,369	$782,317	$844,684	$939,804	$997,921

1/ Includes disability compensation and medical benefit payments under LHWCA, DCCA, and all other extensions to the Act.

2/ Industry payments are reported to the Department of Labor on a calendar year basis.

Table C-2
National Average Weekly Wage (NAWW) and Corresponding Maximum and Minimum Compensation Rates and Annual Adjustments Pursuant to Sections 6(b), 9(e), and 10(f) of LHWCA

Period	NAWW	Maximum Payable	Minimum Payable	Annual Adjustment (% Increase in NAWW)
11/26/72-9/30/73	$131.80	$167.00	$65.90	--
10/01/73-9/30/74	140.26	210.54	70.18	6.49
10/01/74-9/30/75	149.10	261.00	74.57	6.26
10/01/75-9/30/76	159.20	318.38	79.60	6.74
10/01/76-9/30/77	171.28	342.54	85.64	7.59
10/01/77-9/30/78	183.61	367.22	91.81	7.21
10/01/78-9/30/79	198.39	396.78	99.20	8.05
10/01/79-9/30/80	213.13	426.26	106.57	7.43
10/01/80-9/30/81	228.12	456.24	114.06	7.03
10/01/81-9/30/82	248.35	496.70	124.18	8.87
10/01/82-9/30/83	262.35	524.70	131.18	5.64
10/01/83-9/30/84	274.17	548.34 1/	137.09	4.51
10/01/84-9/30/85	289.83	579.66	144.92	5.71 2/
10/01/85-9/30/86	297.62	595.24	148.81	2.69
10/01/86-9/30/87	302.66	605.32	151.33	1.69
10/01/87-9/30/88	308.48	616.96	154.24	1.92
10/01/88-9/30/89	318.12	636.24	159.06	3.13
10/01/89-9/30/90	330.31	660.62	165.16	3.83
10/01/90-9/30/91	341.07	682.14	170.54	3.26
10/01/91-9/30/92	349.98	699.96	174.99	2.61
10/01/92-9/30/93	360.57	721.14	180.29	3.03
10/01/93-9/30/94	369.15	738.30	184.58	2.38
10/01/94-9/30/95	380.46	760.92	190.23	3.06
10/01/95-9/30/96	391.22	782.44	195.61	2.83
10/01/96-9/30/97	400.53	801.06	200.27	2.38
10/01/97-9/30/98	417.87	835.74	208.94	4.33
10/01/98-9/30/99	435.88	871.76	217.94	4.31
10/01/99-9/30/00	450.64	901.28	225.32	3.39
10/01/00-9/30/01	466.91	933.82	233.46	3.61
10/01/01-9/30/02	483.04	966.08	241.52	3.45
10/01/02-9/30/03	498.27	996.54	249.14	3.15
10/01/03-9/30/04	515.39	1,030.78	257.70	3.44
10/01/04-9/30/05	523.58	1,047.16	261.79	1.59
10/01/05-9/30/06	536.82	1,073.64	268.41	2.53
10/01/06-9/30/07	557.22	1,114.44	278.61	3.80
10/01/07-9/30/08	580.18	1,160.36	290.09	4.12
10/01/08-9/30/09	600.31	1,200.62	300.16	3.47
10/01/09-9/30/10	612.33	1,224.66	306.17	2.00
10/01/10-9/30/11	628.42	1,256.84	314.21	2.63

1/ Maximum became applicable in death cases (for any death after September 28, 1984) pursuant to LHWCA Amendments of 1984. Section 9(e)(1) provides that the total weekly death benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefits that the deceased would have been eligible to receive under section 6(b)(1). Maximum in death cases not applicable to DCCA cases *(Keener v. Washington Metropolitan Area Transit Authority, 800 F.2d 1173 (D.C. Cir. (1986)).*

2/ Five percent statutory maximum increase applicable in FY 1985 under section 10(f) of LHWCA, as amended. Maximum increase not applicable to DCCA cases (see note 1/, above).

Table C-3
LHWCA and DCCA Special Funds' Expenditures 1/
FY 2002 - FY 2011
($ thousands)

	LHWCA						DCCA					
	Expenditures ($)					Number of	Expenditures ($)					Number of
FY	Total	Second Injury Cases 2/	Pre Amend. Cases 3/	Rehab. 4/	Other 5/	Second Injury Cases	Total	Second Injury Cases 2/	Pre Amend. Cases 3/	Rehab. 4/	Other 5/	Second Injury Cases
2002	$131,715	$119,661	$2,240	$4,801	$5,013	4,880	$11,386	$10,214	$702	$0	$469	585
2003	131,589	119,965	2,153	4,628	4,844	4,778	11,184	9,997	664	0	523	572
2004	135,247	122,358	2,081	4,990	5,818	4,694	10,920	9,867	645	0	408	544
2005	134,549	122,418	1,973	5,002	5,156	4,588	10,604	9,767	597	0	240	527
2006	133,270	123,412	1,811	2,749	5,298	4,908	10,246	9,418	588	0	240	621
2007	131,920	117,524	1,796	6,715	5,885	4,728	10,087	9,260	613	0	214	603
2008	126,933	116,894	1,673	2,330	6,035	4,533	9,960	9,104	630	0	226	582
2009	132,688	121,203	1,656	2,832	6,996	4,378	10,094	9,197	590	0	306	550
2010	128,110	116,703	1,484	3,183	6,740	4,201	9,388	8,598	548	0	241	516
2011	125,329	112,876	1,389	2,821	8,243	4,089	9,528	8,265	504	4	755	497

1/ Special Fund expenditures shown in this table are reported on a cash basis, i.e., expenses are recognized when paid.

2/ Section 8(f) payments to employees who sustain second injuries that, superimposed on a pre-existing injury, result in the employee's permanent disability or death.

3/ Section 10(h) of the Act requires that compensation payments to permanent total disability and death cases, when the injury or death is caused by an employment event that occurred prior to enactment of the 1972 amendments, be adjusted to conform with the weekly wage computation methods and compensation rates put into effect by the 1972 amendments. Fifty percent of any additional compensation or death benefit paid as a result of these adjustments are to be paid out of the Special Fund accounts.

4/ In cases where vocational or medical rehabilitation services for permanently disabled employees are not available otherwise, and for maintenance allowances for employees undergoing vocational rehabilitation, sections 39(c) and 8(g) of the Act authorize the cost of these services to be paid by the Special Fund.

5/ For cases where impartial medical exams or reviews are ordered by the Department of Labor (section 7(e) of Act) and where a compensation award cannot be paid due to employer default (section 18(b)), the expenses or payments resulting from these actions may be covered by the Special Fund. Also included as "Other" expenditures of the Funds are disbursements under section 44(d) to refund assessment overpayments in FY 2002 - FY 2006. Excluded are disbursements from proceeds of employer securities redeemed under section 32 of the Act. These monies are exclusively for payment of compensation and medical benefits to employees of companies in default.

Note: Special Fund expenditure totals for some years as shown above may differ from those reported to Congress in the Appendix to the President's budget. The figures here are from year-end Status of Funds reports while the President's budget reflects total outlays as reported to the Department of Treasury and may include technical adjustments made by Treasury or the Office of Management and Budget.

Table C-4
LHWCA and DCCA Special Funds' Assessments 1/
CY 2002 - CY 2011
($ thousands)

	LHWCA			DCCA		
CY	Total Industry Assessments 2/	Preceding Year Total Industry Payments 3/	Assessment Base Yr.	Total Industry Assessments 2/	Preceding Year Total Industry Payments	Assessment Base Yr.
2002	125,000	372,376	CY 2001	11,000	5,552	CY 2001
2003	125,000	364,194	CY 2002	10,800	4,746	CY 2002
2004	137,000	368,671	CY 2003	11,500	4,286	CY 2003
2005	135,000	388,258	CY 2004	11,500	5,402	CY 2004
2006	125,000	418,714	CY 2005	10,500	4,277	CY 2005
2007	125,000	471,133	CY 2006	10,000	4,185	CY 2006
2008	124,000	495,148	CY 2007	8,500	4,758	CY 2007
2009	125,000	564,798	CY 2008	11,500	3,598	CY 2008
2010	124,000	621,671	CY 2009	7,500	3,437	CY 2009
2011	123,000	666,985	CY 2010	8,000	3,540	CY 2010

1/ Annual assessments of employers and insurance carriers are the largest single source of receipts to the Special Funds. Other receipts to the Funds include fines and penalties, payments for death cases where there is no person entitled under the Act to the benefit payments, interest earned on Fund investments, overpayment and third party recoveries, and monies received from redemption of securities under section 32 of the Act to pay compensation due employees of companies in default. These payments constitute a small portion of the total receipts of the Special Funds.

2/ Assessments as shown here are not receipts to the Fund that were received during a given calendar year, but total assessments that are receivable from employers and insurance carriers based on the Special Fund assessment formula as prescribed under section 44(c) of the Act.

3/ Annual industry assessments prior to CY 1985 were based on each employer's or insurance carrier's total disability compensation and medical benefit payments under the Act during the preceding calendar year. The LHWCA Amendments of 1984 revised the method for computing assessments in two ways. Effective in CY 1985, assessments are based on disability compensation payments only, thereby excluding medical benefits from the computation. Also, a factor for section 8(f) payments attributable to each employer/carrier was added to the assessment base.

Table C-5
Summary of Case Processing Activities Under LHWCA 1/
FY 2002 - FY 2011

Adjudication Level and Case Status	Fiscal Year									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
District Offices										
Pending Inventory of Cases	7,391	5,495	6,051	6,375	6,338	8,563 4/	7,726	8,075	7,700	12,974
OALJ										
Carryover from Previous FY	3,388	2,980	2,517	2,355	2,318	1,984	2,123	2,168	2,324	2,410
New Cases	3,276	3,036	2,926	2,763	2,413	2,614	2,657	2,696	2,884	3,068
Total Docket	6,664	6,016	5,443	5,118	4,731	4,598	4,780	4,864	5,208	5,478
(Dispositions)	3,529	3,499	3,088	2,800	2,747	2,475	2,612	2,540	2,798	2,976
Pending Inventory	2,980 3/	2,517	2,355	2,318	1,984	2,123	2,168	2,324	2,410	2,502
BRB										
Carryover from Previous FY	248	208	267	222	211	182	152	134	114	130
New Cases	260	332	297	288	248	241	226	229	200	201
Total Docket	508	540	564	510	459	423	378	363	314	331
(Dispositions)	319	282	355	304	288	282	260	256	195	198
Pending Inventory	208 2/	267 2/	222 2/	211 2/	182 2/	152 2/	134 2/	114 2/	130 2/	148 2/

1/ Beginning in FY 1988, DCCA cases are excluded from DLHWC's District Offices' inventory as administration of these cases was delegated to the District of Columbia government effective July 18, 1988. Case processing and adjudication activities at the Office of Administrative Law Judges (OALJ) and Benefits Review Board (BRB) levels continue to include both LHWCA and DCCA cases.

2/ Data adjusted by BRB to account for misfiled, duplicate, or reinstated appeals.

3/ Includes dispositions of Boone 33(g) cases.

4/ The increase in pending inventory compared to FY 2006 was due to the large number of new Defense Base Act cases created in the second quarter of FY 2007. The total number of new cases increased by 42 percent during FY 2007.

Table D-1 Part B
Status of All EEOICPA Applications at the End of FY 2011 1/

Case Status/Claims Activity	CASE 2/	CLAIM 3/
Total Applications Received-Program Inception Through 9/30/2011	78,378	120,663
Total Covered Applications Received-Program Inception Through 9/30/2011	63,412	101,791
Final Decisions Completed by Final Adjudication Branch (FAB) 4/	57,585	87,919
Final Approved	34,012	52,511
Final Denied	23,573	35,408
Recommended Decisions by District Offices 5/	1,464	2,956
Outstanding Recommended Decision to Approve	355	895
Outstanding Recommended Decision to Deny	1,109	2,061
Completed Initial Processing - Referred to NIOSH	1,962	5,531
Pending Initial Processing In District Office 6/	2,401	5,385
Lump Sum Compensations	32,105	50,065
Total Payment Amounts		$4,102,087,563

1/ Statistics show the status of all applications filed from program inception through September 30, 2011.

2/ "Case" counts are numbers of employees (or survivors of employees) whose work and illness or death are the basis for a "claim." (One case may have multiple survivor claims).

3/ "Claim" counts are greater than case counts because they include numbers of employees and all survivors of employees who filed for benefits.

4/ Each case or claim also received recommended decision by district office.

5/ Each case or claim still pending final decision by FAB.

6/ Includes remanded cases now in development and closed cases.

Table D-1 Part E
Status of All EEOICPA Applications at the End of FY 2011 1/

Case Status/Claims Activity	CASE 2/	CLAIM 3/
Total Applications Received-Program Inception Through 9/30/2011	69,047	99,027
Total Covered Applications Received-Program Inception Through 9/30/2011	56,800	66,510
Final Decisions Completed by Final Adjudication Branch (FAB) 4/	49,607	53,273
Final Approved	27,646	29,776
Final Denied	21,961	23,497
Recommended Decisions by District Offices 5/	1,389	1,936
Outstanding Recommended Decision to Approve	505	815
Outstanding Recommended Decision to Deny	884	1,121
Completed Initial Processing - Referred to NIOSH	986	1,456
Pending Initial Processing In District Office 6/	4,818	9,845
Compensation Payments (Unique Cases and Claims) 7/	21,450	22,933
Total Compensation Payment Amts.		$2,443,584,117
Lump Sum Allocations (Unique Cases and Claims)	11,674	12,549
Total Lump Sum Payment Amts.		$1,413,450,569
Wage Loss Allocations (Unique Cases and Claims)	2,395	2,869
Total Wage Loss Payment Amts.		$113,877,200
Impairment Allocations (Unique Cases and Claims)	10,350	10,353
Total Impairment Payment Amts.		$916,256,348

1/ Statistics show the status of all applications filed from program inception through September 30, 2011.

2/ "Case" counts are numbers of employees (or survivors of employees) whose work and illness or death are the basis for a "claim." (One case may have multiple survivor claims).

3/ "Claim" counts are greater than case counts because they include numbers of employees and all survivors of employees who filed for benefits.

4/ Each case or claim also received recommended decision by district office.

5/ Each case or claim still pending final decision by FAB.

6/ Includes remanded cases now in development and closed cases.

Table D-2 Part B
Processing Activity During FY 2011
on All EEOICPA Cases/Claims 1/

Processing Activity	CASE 2/	CLAIM 3/
Total Cases/Claims Received-FY 2011	6,303	9,981
Total Cases/Claims (Covered Applications) Received-FY 2011	5,845	9,312
Final Decisions by FAB Offices in FY 2011	8,371 4/	13,337
Final Approved	4,221	7,264
Final Denied	4,150	6,073
Modification Orders in FY 2011	196	222
Recommended Decisions by District Offices in FY 2011	8,308	13,010
Recommended Decision Only, to Approve	3,807	6,474
Recommended Decision Only, to Deny	4,501	6,536
Referrals to NIOSH in FY 2011	3,351	4,521
Lump Sum Compensation Payments in FY 2011	4,150	7,214
ECMS-Generated Payments	4,117	7,140
Non ECMS-Generated Payments	33	74
Remands	217	394

1/ Activity statistics capture actions made during FY 2011 only, therefore the number of activities reported do not add up to the total number of cases/claims received during FY 2011. (Many activities recorded occurred on cases/claims received prior to FY 2011).

2/ "Case" counts are numbers of employees (or survivors of employees) whose work and illness or death are the basis for a "claim." (One case may have multiple survivor claims).

3/ "Claim" counts are greater than case counts because they include numbers of employees and all survivors of employees who filed for benefits.

4/ Total includes cases with recommended decisions in FY 2011.

Table D-2 Part E
Processing Activity During FY 2011
on All EEOICPA Cases/Claims 1/

Processing Activity	CASE 2/	CLAIM 3/
Total Cases/Claims Received-FY 2011	5,674	7,441
Total Cases/Claims (Covered Applications) Received-FY 2011	5,083	5,901
Final Decisions by FAB Offices in FY 2011	10,497 4/	10,904
Final Approved	5,605	5,791
Final Denied	4,892	5,113
Modification Orders in FY 2011	322	368
Recommended Decisions by District Offices in FY 2011	10,958	11,444
Recommended Decision Only, to Approve	5,555	5,811
Recommended Decision Only, to Deny	5,403	5,633
Referrals to NIOSH in FY 2011	2,030	2,271
Compensation Payments in FY 2011 (Unique Cases and Claims) 5/	4,071	4,233
ECMS-Generated Payments	4,065	4,227
Non ECMS-Generated Payments	6	6
Total Compensation Payment Amts.		$338,622,622
Lump Sum Allocations (Unique Cases and Claims)	1,283	1,379
Total Compensation Payment Amts.		$140,699,972
Wage-Loss Allocations (Unique Cases and Claims)	536	589
Total Wage-Loss Payment Amts.		$19,988,845
Impairment Allocations (Unique Cases and Claims)	2,541	2,541
Total Impairment Payment Amts.		$177,933,805
Remands	266	414

1/ Activity statistics capture actions made during FY 2011 only, therefore the number of activities reported do not add up to the total number of cases/claims received during FY 2011. (Many activities recorded occurred on cases/claims received prior to FY 2011).

2/ "Case" counts are numbers of employees (or survivors of employees) whose work and illness or death are the basis for a "claim." (One case may have multiple survivor claims).

3/ "Claim" counts are greater than case counts because they include numbers of employees and all survivors of employees who filed for benefits.

4/ Total includes cases with recommended decisions in FY 2011.

5/ Lump Sum, Wage Loss, and Impairment Allocations will not add to the Compensation Payments break out since a case can receive multiple payments.

Table D-3 Part B
EEOICPA Cases With Approved Decisions and Payments by Catergory, Program Inception Through September 30, 2011

Category	Number of Approved Cases 1/	Percentage of Total Final Approvals	Number of Paid Claimants 1/	Total Compensation Paid 2/ ($ thousands)	Percentage of Total Compensation Paid
Radiation Exposure Comp. Act (RECA) 3/	6,997	20.6%	11,083	$349,095	8.5%
Special Exposure Cohort Cancer (CN)	14,617	43.0%	23,983	2,166,241	52.8%
Dose Reconstructed Cancer (CN)	8,226	24.2%	11,551	1,225,671	29.9%
Beryllium Disease (CBD) 4/	2,056	6.0%	2,702	304,537	7.4%
Beryllium Sensitivity-Only (BS)	1,722	5.1%	N/A	N/A	N/A
Silicosis (CS)	89	0.3%	113	12,731	0.3%
Multiple Conditions 5/	279	0.8%	303	41,550	1.0%
TOTAL	33,986	100.0%	49,735	$4,099,825 6/	100.0%

1/ There is not a direct correlation between number of approved cases and number of paid claimants for two reasons: (1) more than one claimant can receive payment on a single approved case, and (2) some cases were approved prior to 9/30/2011, but payments were not issued.

2/ Represents total lump sum compensation payments from EEOIC program inception through September 30, 2011.

3/ RECA cases are not counted in any other category of this table.

4/ Cases approved for both CBD and BS are counted in the CBD category, only.

5/ Cases counted in the Multiple Conditions category were approved for CN and CBD, or CN and CS, or CBD and CS, or CN and BS, or CS and BS.

6/ Total compensation paid does not include 17 cases ($2,262,501) that could not be attributed to the designated categories.

Table D-4 Part B
EEOICPA Cases With Final Decision to Deny, Program Inception Through September 30, 2011

Reason for Denial	Number of Cases 1/
Employee Did Not Work at a Covered DOE Facility, Atomic Weapons Employer, or Beryllium Vendor During a Covered Time Period	5,330
Alleged Survivor Not an Eligible Beneficiary	703
Claimed Condition Not Covered Under Part B of EEOICPA 2/	9,419
Dose Reconstruction Reveals the Probability That the Cancer is Related to Employment is Less Than 50 Percent	16,672
Medical Evidence is Insufficient to Establish Entitlement	6,198
TOTAL	38,322

1/ A case may have more than one final decision. (For example, a request for modification may result in a second final decision on a case). Therefore, the total number shown does not represent the number of cases with final decisions to deny.

2/ Non-covered applications.

Table D-4 Part E
EEOICPA Cases With Final Decision to Deny, Program Inception Through September 30, 2011

Reason for Denial	Number of Cases 1/
Employee Did Not Work at a Covered DOE Facility, Atomic Weapons Employer, or Beryllium Vendor During a Covered Time Period	3,799
Alleged Survivor Not an Eligible Beneficiary	8,177
Dose Reconstruction Reveals the Probability That the Cancer is Related to Employment is Less Than 50 Percent	7,619
Medical Evidence is Insufficient to Establish Entitlement	14,342
TOTAL	33,937

1/ A case may have more than one final decision. (For example, a request for modification may result in a second final decision on a case). Therefore, the total number shown does not represent the number of cases with final decisions to deny.

Table D-5 Part B
Most Prevalent Non-Covered Medical Conditions,
EEOIC Program Inception Through September 30, 2011

Non-Covered Medical Condition	Percentage of All Denials For This Condition 1/
Other Lung Conditions	21 %
Heart Condition/Failure/Attack/Hypertension	11
Chronic Obstructive Pulmonary Disease & Emphysema	9
Asbestosis	6
Renal Condition or Disorder (Kidney Failure, Kidney Stones)	6
Hearing Loss	4
Benign Tumors, Polyps, Skin Spots	3
Diabetes	3
Neurological Disorder	2
Thyroid Conditions (e.g., Hypothyroidism)	2
Anemia	1
Back or Neck Problems	1
Parkinson's Disease	1
Psychological Conditions	1
All Other Non-Covered Conditions (Each Less Than 1%) or Other (Not Listed)	21
No Condition Reported on Claim Form or Blank Condition Type	8

1/ Based on cases that were denied because claimed condition was not covered under Part B of EEOICPA. These figures exclude cases that have a "covered" condition, whereas Table D-4 Part B includes these cases.

Note: The sum of individual items may not equal 100 percent due to rounding.

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200 Constitution Avenue, NW.
Washington, DC 20210
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Director, Office of Workers' Compensation Programs
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Division of Administration and Operations
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Division of Longshore and Harbor Workers' Compensation
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Division of Energy Employees Occupational Illness Compensation
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Christy A. Long, Deputy Director
LuAnn Kressley, Chief, Final Adjudication Branch

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(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

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U.S. Department of Labor
OWCP/DCMWC
604 Cheat Road
Morgantown, WV 26505
1-800-347-3749

U.S. Department of Labor
OWCP/DCMWC
Wise County Plaza, 2nd Floor
Route 23
Wise, VA 24293
276-679-4590

Region IV -- Southeast

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Office

Magdalena Fernandez, Acting Regional Director
U.S. Department of Labor, OWCP
400 West Bay Street, Room 943
Jacksonville, FL 32202
904-357-4776

Jacksonville FECA District Office

Magdalena Fernandez, District Director

U.S. Department of Labor
OWCP/DFEC
400 West Bay Street, Room 826
Jacksonville, FL 32202
904-366-0100

Jacksonville Longshore District Office
Charles Lee, District Director
U.S. Department of Labor
OWCP/DLHWC
Charles E. Bennett Federal Bldg.
400 West Bay Street, Room 63A, Box 28
Jacksonville, FL 32202
904-357-4788

Jacksonville Energy District Office
James Bibeault, District Director
U.S. Department of Labor
OWCP/DEEOIC
400 West Bay Street, Room 722
Jacksonville, FL 32202
904-357-4705 (Toll-Free 1-877-336-4272)

Pikeville Black Lung District Office
Roger Belcher, District Director
U.S. Department of Labor
OWCP/DCMWC
164 Main Street, Suite 508
Pikeville, KY 41501-1182
606-218-9300 (Toll-Free 1-800-366-4599)

Mt. Sterling Black Lung Sub-District Office
Vicky C. Ashby, Assistant District Director
U.S. Department of Labor
OWCP/DCMWC
402 Campbell Way
Mt. Sterling, KY 40353
859-498-9700 (Toll-Free 1-800-366-4628)

EEOICPA Resource Center Contract Facilities:

(Paducah Site)
Alison Gill, Office Manager
Barkley Center, Unit 125
125 Memorial Drive
Paducah, KY 42001
270-534-0599 (Toll-Free 1-866-534-0599)
paducah.center@rrohio.com

(Savannah River Site)
Karen Hillman, Office Manager
1708 Bunting Drive
North Augusta, SC 29841
803-279-2728 (Toll-Free 1-866-666-4606)
srs.center@rrohio.com

(Oak Ridge Site)
Shirley White, Office Manager
Jackson Plaza Office Complex
800 Oak Ridge Turnpike, Suite C-103
Oak Ridge, TN 37830
865-481-0411 (Toll-Free 1-866-481-0411)
or.center@rrohio.gov

Region V/VII -- Midwest
(Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin, overseas cases)

Regional Office (Chicago)
Robert Sullivan, Regional Director
U.S. Department of Labor, OWCP
230 South Dearborn Street, 8th Floor
Chicago, IL 60604
312-789-2800

Chicago FECA District Office
James Polcyn, District Director
U.S. Department of Labor
OWCP/DFEC
230 South Dearborn Street, 8th Floor
Chicago, IL 60604
312-789-2800

Cleveland FECA District Office
Karen Spence, District Director
U.S. Department of Labor
OWCP/DFEC
1240 East Ninth Street, Room 851
Cleveland, OH 44199
216-902-5601

Cleveland Energy District Office
Annette Prindle, District Director
U.S. Department of Labor
OWCP/DEEOIC
1001 Lakeside Avenue, Suite 350
Cleveland, OH 44114
216-802-1300 (Toll-Free 1-888-859-7211)

Columbus Black Lung District Office
Lorraine Rardain, District Director
U.S. Department of Labor
OWCP/DCMWC
1160 Dublin Road, Suite 300
Columbus, OH 43215-1052
614-469-5227 (Toll-Free 1-800-347-3771)

Kansas City FECA District Office
Lois Maxwell, District Director
U.S. Department of Labor
OWCP/DFEC
Two Pershing Square Building
2300 Main Street, Suite 1090
Kansas City, MO 64108-2416
816-268-3040

EEOICPA Resource Center Contract Facility:

(Portsmouth Site)
Jackie Sensue, Office Manager
1200 Gay Street
Portsmouth, OH 45662
740-353-6993 (Toll-Free 1-866-363-6993)
portsmouth.center@rrohio.com

Region VI/VIII -- Southwest
(Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming)

Regional Office (Dallas)
Sharon Tyler, Acting Regional Director
U.S. Department of Labor, OWCP
525 South Griffin Street, Room 407
Dallas, TX 75202
972-850-2409

Dallas FECA District Office
Christina Stark, District Director
U.S. Department of Labor
OWCP/DFEC
525 South Griffin Street, Room 100
Dallas, TX 75202
214-749-2320

Houston Longshore District Office
David Widener, District Director
U.S. Department of Labor
OWCP/DLHWC
Mickey Leland Federal Building
1919 Smith Street, Suite 870
Houston, TX 77002
713-209-3235

New Orleans Longshore District Office
David Duhon, District Director
U.S. Department of Labor
OWCP/DLHWC
600 S. Maestri Place, Suite 617
New Orleans, LA 70130
504-589-2671

Denver FECA District Office
Shirley Bridge, District Director
U.S. Department of Labor
OWCP/DFEC
P.O. Box 25602
One Denver Federal Center, Bldg. 53
Denver, CO 80225-0602
303-202-2500

Denver Black Lung District Office
Valerie Jackson, District Director
U.S. Department of Labor
OWCP/DCMWC
Building 53 – Suite D2212
One Denver Federal Center
Denver, CO 80225-0603
720-264-3100 (Toll-Free 1-800-366-4612)

Denver Energy District Office
Janet Kapsin, District Director
U.S. Department of Labor
OWCP/DEEOIC
P.O. Box 25601
One Denver Federal Center, Bldg. 53
Denver, CO 80225-0601
720-264-3060 (Toll-Free 1-888-805-3389)

EEOICPA Resource Center Contract Facilities:

(Rocky Flats Site)
Janele Horner-Zarate, Office Manager
8758 Wolff Court, Suite 101
Westminster, CO 80031
720-540-4977 (Toll-Free 1-866-540-4977)
denver.center@rrohio.com

(Espanola Site)
Karen Martinez, Office Manager
412 Paseo De Onate, Suite D
Espanola, NM 87532
505-747-6766 (Toll-Free 1-866-272-3622)
espanola.center@rrohio.com

Region IX/X -- Pacific
(Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Washington)

Regional Office (San Francisco)
Sharon Tyler, Regional Director
U.S. Department of Labor, OWCP
90 Seventh Street, Suite 15-100F
San Francisco, CA 94103-6716
415-241-3300

San Francisco FECA District Office
Andy Tharp, District Director
U.S. Department of Labor
OWCP/DFEC
90 Seventh Street, Suite 15-100F
San Francisco, CA 94103-6716
415-241-3300

San Francisco Longshore District Office
R. Todd Bruininks, District Director
U.S. Department of Labor
OWCP/DLHWC
90 Seventh Street, Suite 15-100
San Francisco, CA 94103-6716
415-625-7669

Long Beach Longshore District Office
Marco Adame, District Director
U.S. Department of Labor
OWCP/DLHWC
401 East Ocean Blvd., Suite 720
Long Beach, CA 90802
562-980-3577

Honolulu Longshore Sub-District Office
R. Todd Bruininks, District Director
U.S. Department of Labor
OWCP/DLHWC
300 Ala Moana Blvd., Room 5-135
Post Office Box 50209
Honolulu, HI 96850
808-541-1983

Seattle FECA District Office
Marcus Tapia, District Director
U.S. Department of Labor
OWCP/DFEC
300 Fifth Avenue, Suite 1050F
Seattle, WA 98104-2429
206-470-3100

Seattle Longshore District Office
R. Todd Bruininks, District Director
U.S. Department of Labor
OWCP/DLHWC
300 Fifth Avenue, Suite 1050L
Seattle, WA 98104
206-504-5287

Seattle Energy District Office
Joyce Vail, District Director
U.S. Department of Labor
OWCP/DEEOIC
300 Fifth Avenue, Suite 1050E
Seattle, WA 98104-2397
206-373-6750 (Toll-Free 1-888-805-3401)

EEOICPA Resource Center Contract Facilities:

(Idaho Falls Site)
Joe Krachenfels, Office Manager
Exchange Plaza
1820 East 17th Street, Suite 250
Idaho Falls, ID 83404
208-523-0158 (Toll-Free 1-800-861-8608)
idaho.center@rrohio.com

(Las Vegas Site)
Joe Krachenfels, Office Manager
Flamingo Executive Park
1050 East Flamingo Road, Suite W-156
Las Vegas, NV 89119
702-697-0841 (Toll-Free 1-866-697-0841)
vegas.center@rrohio.com

(Hanford Site)
Steve Beehler, Office Manager
303 Bradley Blvd., Ste. 104
Richland, WA 99352
509-946-3333 (Toll-Free 1-888-654-0014)
hanford.center@rrohio.com

(California Site)
Joe Krachenfels, Office Manager
7027 Dublin Blvd., Suite 150
Dublin, CA 94568
925-606-6302 (Toll-Free 1-866-606-6302)
california.center@rrohio.com

OWCP/DFEC
National Operations Office
800 N. Capitol St., NW., Room 800
Washington, DC 20211
202-513-6800

National Operations Office
(District of Columbia, Maryland, Virginia)

Angella Winn, District Director
U.S. Department of Labor