



Submitted to Congress 2006
U.S. Department of Labor
Employment Standards Administration

Office of Workers' Compensation Programs



Material contained in this publication is in the public domain and may be reproduced, fully or partially, without permission of the Federal Government. Source credit is requested but is not required. Permission is required only to reproduce any copyrighted material contained herein.

This material will be made available to individuals upon request.
(202)693-0031
Internet address:
www.dol.gov/esa/owcp_org.htm

OWCP Annual Report to Congress FY 2003

Submitted to Congress 2006

U.S. Department of Labor
Elaine L. Chao, Secretary

Employment Standards Administration
Victoria A. Lipnic, Assistant Secretary

Office of Workers' Compensation Programs
Shelby Hallmark, Director



SECRETARY OF LABOR
WASHINGTON

MAY 19 2006

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

Gentlemen:

I have enclosed the Department of Labor's annual report to Congress on the FY 2003 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, 2002, through September 30, 2003.

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.

I trust that this report both fulfills the requirements of the respective laws and is useful to Congress and other interested parties as a comprehensive source of information on the administration and operation of Federal workers' compensation programs.

Sincerely,



Elaine L. Chao

Enclosures

Contents

Assistant Secretary's Message	2
Director's Message	3
OWCP Accomplishments in FY 2003	5
Federal Employees' Compensation Act	9
Black Lung Benefits Act	19
Longshore and Harbor Workers' Compensation Act	33
Energy Employees Occupational Illness Compensation Program Act	45
Appendix	55
Office Directory	78

Assistant Secretary's Message

I am pleased to forward the Office of Workers' Compensation Programs' (OWCP) Annual Report for Fiscal Year 2003 to the Secretary, to be transmitted to Congress.

In FY 2003, OWCP took many steps to improve the administration of its four programs. Its new central bill pay system, commitment to compliance assistance, and willingness to undergo independent evaluations to assess the effectiveness of its programs will all lead to improved services for its customers and stakeholders.

I am proud of OWCP's accomplishments and of its hard working and dedicated staff, who have made the accomplishments reflected in this report possible.

Victoria A. Lipnic
Assistant Secretary for
Employment Standards

Director's Message

FY 2003 was a very busy year for the OWCP programs. In FY 2003, OWCP contracted with Affiliated Computer Solutions (ACS) to provide medical bill processing services for all OWCP programs. In the first phase, the Federal Employees' Compensation (FEC) program consolidated its medical authorization and bill payment processes. ACS now processes all medical bills and handles treatment authorizations for FECA medical providers and beneficiaries. New service standards, programming changes and telephone service improvements enable the new centralized system to provide more consistent, better controlled, and more efficient bill payment services. Because bills are no longer processed in our district offices, it has freed up our field staff to focus on quality adjudication, case management, and communications, thereby better addressing workers' needs.

Also, in FY 2003, OWCP contracted with ICF Consulting to evaluate the FEC program in order to assess its effectiveness and to develop recommendations for improvement. The study is being conducted in response to a recommendation which came out of the FY 2002 Program Assessment Rating Tool review. While previous studies have addressed specific aspects of the FEC program, this evaluation is to address the overarching issues of FEC design and strategic goals, review the performance of program initiatives, and provide state, other Federal, and private industry benchmarks and best practices against which to assess program performance.

The FEC program also continued to produce savings through its Periodic Roll Management project and medical cost containment initiatives.

The Division of Energy Employees Occupational Illness Compensation (DEEOIC), completing its second full year of operation, has provided over 9,000 employees or their families with compensation payments of approximately \$660 million. Over \$18 million in medical payments associated with treatment services under the EEOICPA also have been paid by the program.

The Division of Coal Mine Workers' Compensation initiated a major compliance assistance action by contacting over 200 coal mine operators to reinforce the importance of their statutory requirements to insure and stay insured against their potential liability for paying black lung benefits.

Because of the unusually high use of the Defense Base Act during FY 2003 (due to the military activities in Iraq and other parts of the Middle East), the Division of Longshore and Harbor Workers' Compensation (DLHWC) has provided numerous educational seminars and coverage compliance assistance to Federal agencies, insurance carriers, and contractors.

The real and measurable progress we have made in improving the administration of all OWCP programs is due to the ingenuity, energy and hard work of the entire OWCP staff. I am confident that as new challenges arise, the staff's enthusiasm, dedication and commitment to its customers will enable them to accomplish the tasks before them.

Shelby Hallmark
Director, Office of Workers'
Compensation Programs

OWCP Accomplishments In FY 2003

2003

OWCP's Government Performance and Results Act goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families" was substantially achieved.

Of the ten performance indicators included under the performance goal, eight were achieved. In the Federal Employees' Compensation (FEC) program, the goals to increase vocational rehabilitation placements, produce Periodic Roll Management savings, keep the indexed cost per case of FECA cases below the comparable measure for nationwide health care costs, and improve FECA customer services were all met. Initial processing of claims for benefits and the processing of final decisions in the Energy program met the goal. The Longshore goal to reduce the average time required to resolve disputed issues was achieved, as was the Black Lung goal to increase the percentage of benefit claims in which there were no requests for further action pending one year after claim receipt.

OWCP awarded a contract to centralize all pharmacy and medical bill processing activities for the FEC, Black Lung, and Energy programs. Under the first phase of the contract, FEC program system requirements were identified and the design, development and testing of a consolidated system was completed. The OWCP Central Bill Processing System began processing FEC bills at the end of FY 2003.

In FY 2003, the Division of Energy Employees Occupational Illness Compensation provided over 4,200 employees or their families with compensation payments of approximately \$305 million. Over \$14 million in medical payments associated with treatment services under the EEOICPA also were paid during the year.

The Secretary of Labor implemented the President's new three-year initiative – Safety, Health, and Return-to-Employment or SHARE – which calls on all Federal agencies to establish ambitious but reachable goals to decrease total lost-time case rates, increase claims filing timeliness, and reduce lost production days for injured workers. SHARE is jointly managed by OWCP and the Occupational Safety and Health Administration.

Quality Case Management (QCM) interventions occurred in over 16,000 FECA cases. Lost Production Days per QCM case decreased from 164 to 162 days. More than 86 percent of those cases were resolved within 30 months of the date disability began. Over 9,200 injured workers were returned to work.

FEC's Periodic Roll Management project reviewed and resolved over 4,200 long-term cases. OWCP achieved nearly \$25 million in first-year



OWCP Government Performance And Results Act Accomplishments In FY 2003

GOAL- Minimize The Human, Social, and Financial Impact Of Work-Related Injuries For Workers And Their Families

RESULTS- Eight Of The Ten OWCP Performance Indicators Were Achieved, Including:

Under The FEC Program, Vocational Rehabilitation Placements Were Increased, Periodic Roll Management Savings Were Produced, Cost Per Case Levels Were Kept Below Nationwide Health Care Costs, And Overall Customer Service Improved.

Under The Energy Program, Initial Processing Of Claims For Benefits And The Processing Of Final Decisions Were Achieved.

Under The Longshore Program, The Average Time Required To Resolve Disputed Issues Was Reduced.

Under The Black Lung Program, The Percentage Of Benefit Claims With No Requests For Further Action Increased.

compensation cost savings through PRM, while continuing to ensure that injured workers receive appropriate medical services and care.

Application of the FECA medical fee schedule saved the program \$406.6 million compared to amounts billed by providers. Bill review under the Correct Coding Initiative identified \$16.7 million in improper billings and saved that amount in medical costs. Together these reductions amounted to over 39 percent of the total charged by medical providers in FY 2003.

The Division of Coal Mine Workers' Compensation initiated a major compliance assistance action by contacting over 200 coal mine operators to reinforce the importance of their statutory requirement to insure and stay insured against their potential liability for paying black lung benefits.

The Longshore program conducted numerous educational seminars and provided critical compliance assistance throughout the year to Federal agencies, insurance carriers and contractors in the areas of insurance coverage compliance, insolvencies, and due to the military activities in Iraq and other parts of the Middle East, coverage under the Defense Base Act.

Federal Employees' Compensation Act

2003

2003

Introduction

In 1916, President Wilson signed the first comprehensive law protecting Federal workers from the effects of work injuries. In the years following, the

Federal Employees' Compensation (FEC) program has continually changed to meet its commitment to provide high quality service to employees and their employing agencies while also minimizing the human, social and financial costs of work-related injuries.

During Fiscal Year (FY) 2003, the program provided workers' compensation coverage for approximately 2.7 million Federal workers. 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 also are covered.

Benefits and Services

The primary goal of the FEC program is assisting Federal employees who have sustained work-related injuries or disease by providing both appropriate financial benefits and help in returning to work. Benefits provided to employees covered by the Federal Employees' Compensation Act (FECA) 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 FEC program compensates injured workers for permanent impairment of limbs and

other parts of the body. Benefits to survivors in the event of work-related death also are payable. The FECA provides training and job placement assistance to help injured workers return to gainful employment. Monetary benefits (with the exception of continuation of pay) are paid directly by the FEC program to injured employees, their dependents or survivors, and to service providers.

During FY 2003, the FEC program provided 284,000 workers nearly \$2.4 billion in benefits for work-related injuries or illnesses. Of these benefit payments, nearly \$1.6 billion were for wage-loss compensation, \$658 million for medical and rehabilitation services, and \$131 million for death benefit payments to surviving dependents. In addition, \$20 million in contract nurse services were provided to injured workers in their medical recovery and return-to-work process.

The FECA is the exclusive remedy by which Federal employees may obtain disability, medical, and/or survivor benefits from the United States for workplace injuries.

Funding

Benefit payments made by the program come from the Employees' Compensation Fund. Fund outlays are billed to employing agencies in August. Each year these agencies replenish the Fund through a mechanism known as chargeback.

Most agencies, except the U.S. Postal Service and other non-appropriated fund agencies, include those chargeback costs in their next annual appropriation request to Congress. Remittances to the Employees' Compensation Fund are not made until the first month of the subsequent fiscal year (or later, if the agency's full-year appropriation is enacted later than that). This means that there is at least 15 months between the dates of the chargeback "bill" and when the payment to the fund is completed. Given cost-of-living increases in wage-loss benefits and inflation affecting medical costs, by the time remittance is



Benefit Outlays Under FECA FY 2003

TOTAL BENEFITS*: \$2,346 MILLION	
Long Term Disability (Wage Loss)	53.0% \$1,243 Million
Medical Benefits	27.7% \$ 650 Million
Temporary Disability (Wage Loss)	13.4% \$ 314 Million
Death Benefits	5.6% \$ 131 Million
Vocational Rehabilitation	0.3% \$ 8 Million

*Actual Obligations

earmarked for OWCP capital investments for the development and operation of automated data management and operations support systems, periodic roll case management, and medical bill cost control. The central bill processing contract was supported with these funds. Another approximately \$10 million are for legal,

made it usually is insufficient to cover current outlays. The annual Department of Labor (DOL) appropriation makes up any difference.

investigative, and other support from the Employees' Compensation Appeals Board (ECAB), Office of the Solicitor, and the Office of the Inspector General.

Expenses for a small number of cases are not charged back to employing agencies but also are covered by the DOL appropriation. For FY 2003, these non-chargeback expenses were approximately \$31 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 Act, that did not contain mechanisms for billing employers.

Government Performance and Results Act

In FY 2003, the Division of Federal Employees' Compensation (DFEC) achieved four out of the six indicators under OWCP's goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families." The DFEC achieved its following goals:

Increase FECA Vocational Rehabilitation placements with new employers for injured USPS employees by five percent over FY 2002.

Through use of Periodic Roll Management, produce \$20 million in first-year savings in the FEC program.

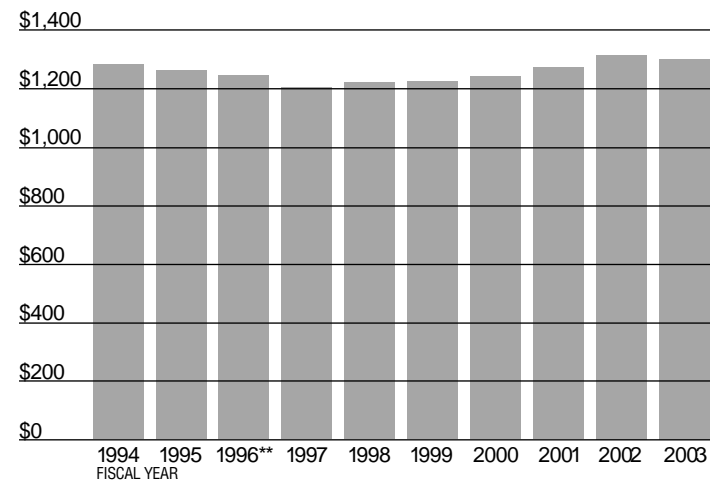
The trend in the indexed cost per case of FECA cases receiving medical treatment will remain below the comparable measure for nationwide health care costs.

Improve FECA Customer Services in Key Communications Areas.

DFEC was not successful in the following two lost production days goals: For FECA cases of the United States Postal Service, reduce the lost production days

FECA Benefit Expenditures

IN MILLIONS OF CONSTANT DOLLARS*



*Actual Obligations in current dollars deflated by CPI-W (urban wage earners and clerical workers, U.S. city average, all items), 1982-1984=100.

**FY 1996 excludes one-time (upward) adjustment of \$85.5 million to implement accrual-based accounting for benefit liabilities.

rate (LPD per 100 employees) by one percent from the FY 2002 baseline; and, for FECA cases of all other government agencies, reduce the lost production days rate (LPD per 100 employees) by three percent from the FY 2001 baseline.

The increase in LPD reflects an increase in non-Postal Federal employment, particularly in the security field, exposing additional workers to potential injuries; an increase in new FECA injury claims of six percent over FY 2002; continuing increases in the number of wage-loss (severe) claims (up to 30 percent since FY 2000); and, significantly, an increase of 22 percent in total disability days during the continuation-of-pay period (immediately following injury and before OWCP takes jurisdiction over the case).

Despite these negative external factors, the total increase in LPD was kept modest by efforts to manage FECA wage-loss claims. Through FEC's Quality Case Management (QCM) program, average time loss in those cases was reduced to 162

days per case, a reduction of an average of 27 wage-loss days since 1997, saving \$26 million in annual compensation costs for affected cases.

To better address its lost production day reduction goals, the FEC program will employ additional Vocational Rehabilitation strategies, including increasing the number of workers placed with new employers, continuing assignment of nurses to assist new injury cases under QCM, and reinvigorating a joint program, the Safety, Health and Return-to-Employment initiative, with the Occupational Safety and Health Administration to better publicize and focus Federal employees on workplace injuries, set government-wide

performance goals to reduce injury rates, speed time of filing new injury notices, and reduce lost production days.

Case Adjudication and Management

TIMELY DECISION-MAKING

Approximately 168,000 new injury and illness claims were filed under FECA in FY 2003. Eighty-five percent were for traumatic injuries, such as those caused by slips and falls. The remaining claims were for medical conditions arising out of long-term exposure, repeated stress or strain, or other continuing conditions of the work environment. Disability extended beyond the 45-day continuation-of-pay period in 14 percent of all cases. In FY 2003, 86 percent of wage-loss claims were paid within 14 days of receipt. For traumatic injury claims, 97 percent were adjudicated within 45 days of the day the OWCP received notice of the injury.

In FY 2003, the FEC program also achieved a high rate of timeliness in deciding non-traumatic injury claims despite the complexities involved. When the case was relatively simple, 94 percent were



FECA Benefits Charged To Employing Agencies

CHARGEBACK YEAR 2003

Chargeback Total: \$2,323 Million

Postal Service	\$ 847 Million
Defense	\$ 628 Million*
Veterans Affairs	\$ 157 Million
Transportation	\$ 95 Million
Homeland Security	\$ 84 Million
Agriculture	\$ 72 Million
Justice	\$ 66 Million
All Other	\$ 374 Million

*Defense includes Navy (\$245M), Army (\$181M), Air Force (\$136M), and Department of Defense (\$65M).

Note: The sum of individual agencies may not equal total due to rounding.

adjudicated within 90 days. Eighty percent of the more complex non-traumatic cases were adjudicated within 180 days.

MANAGEMENT OF DISABILITY CASES

OWCP's primary Government Performance and Results Act goal, reduction of the rate of Lost Production Days (LPD), guides its case management strategy. The goal is based on measuring the duration of disability for cases in the first year of lost time from work, including continuation of pay and compensation, and calculating a rate of disability days per 100 employees for each agency. The government-wide LPD was 83.1 days in FY 2003. The U.S. Postal Service's LPD in FY 2003 was 147.6 days. At the same time, all non-postal government agencies had an aggregate LPD of 56.0 days.

Quality Case Management (QCM) was implemented in the FEC program in FY 1993 as another means of reducing the number of days an injured worker was out of work. 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. From the very earliest stages after the injury 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 works not only 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 2003, nurses intervened in 16,273 lost time claims and 2,859 workers were referred for vocational rehabilitation services. Over 9,200 injured workers returned to work in FY 2003 with the assistance of contract nurses or rehabilitation counselors. More than eighty-six percent of these QCM cases during FY 2003 were resolved within 30 months of the date disability began. The average length of disability measured for cases that had begun wage-loss payments in the previous year was 162 days.

In addition to stressing early intervention, the FEC program dedicated resources to thoroughly reviewing long-term disability cases. The Periodic Roll Management (PRM) project serves to provide medical examinations, vocational rehabilitation and placement assistance, with a view toward reemployment of injured workers. PRM has proven to be hugely successful, with outcomes exceeding OWCP's original estimates. In FY 2003, staff reduced compensation costs by \$24.6 million. Over 4,200 cases were screened, and benefits were adjusted or terminated in over 2,300 cases where beneficiaries' disability had either resolved or lessened to the point that return to work was possible. Savings from these actions continue in subsequent years.

CENTRAL MEDICAL BILL PROCESSING

OWCP contracted with Affiliated Computer Solutions (ACS) to provide medical bill processing services for all OWCP programs. ACS was selected after an extensive review of contractors with proven industry expertise in the processing of medical bills. After several meetings with a number of medical bill processors, a solicitation was released through the General Services Administration. Proposals were reviewed by a five-person technical panel from OWCP and the contract was awarded to ACS in May of 2002. The schedule developed by OWCP called for the Division of Federal Employees' Compensation to be implemented by the end of FY 2003 with the other OWCP programs to be implemented in 2004.

Upon contract award ACS provided OWCP with a project plan for the implementation. In the period June 2002 through September 2002, OWCP and ACS held a series of requirements meetings

designed to formalize the requirements from the documentation ACS provided as part of the solicitation. As a result of these meetings, OWCP and ACS produced and jointly agreed to a Detailed Design document that served as the basis for the development of the new system.

System development, based on the Detailed Design document occurred from October 2002 through April 2003. During this period ACS modified its core bill processing system to accommodate the DFEC requirements and began developing both automated and manual procedures for staffing and running a Medical Bill Processing and Medical Authorization Call Center. As both the automated system and manual procedures were developed ACS provided OWCP with regular status reports on progress made and met frequently with the OWCP team to answer design questions and refine requirements. During this time OWCP was provided opportunities to review ACS' progress towards completion of system development and provide recommendations for changes and refinements to the system design.

ACS completed system development in early May 2003. In May and June ACS performed internal testing of the system components and completed integration testing of the entire system. During the integration testing OWCP had representatives participating to ensure completeness of the testing and to assist OWCP in preparing for DOL acceptance testing. OWCP conducted its system testing in July and August 2003. The system began processing pharmacy bills in mid-August 2003 and all other FECA bills in September 2003.

CORRECT CODING INITIATIVE

The FEC program cost containment efforts initiated in 1999 continued to reduce medical costs in FY 2003. The Centers for Medicare and Medicaid Services of the Department of Health and Human Services developed the National Correct Coding Initiative to promote national correct coding



methodologies and to control improper coding that leads to inappropriate payment for outpatient services. In addition to applying the Correct Coding Initiative (CCI), OWCP uses the Diagnostic Related Group methodology to reduce inpatient costs and a pharmacy fee schedule. Application of the FECA medical fee schedule saved the program \$406.6 million compared to amounts billed by providers. Bill review under the CCI identified \$16.7 million in improper billings and saved that amount in medical costs. Together these reductions amounted to 39.4 percent of the total charged by medical providers in FY 2003.

Services to Claimants and Beneficiaries

During FY 2003, the FEC program continued its focus on improved customer service and satisfaction in keeping with the "Pledge to Our Customers."

COMMUNICATIONS REDESIGN INITIATIVES

Communications enhancements by the FEC program are giving callers easier access to claims information and more responsive assistance with procedural questions. To produce these results required a top-to-bottom renovation of telephone call handling and correspondence processes. Investments in customer service personnel and equipment were accompanied by concerted efforts to standardize both the information provided and the methods of delivery. OWCP also has made information more readily available through automated means via telephone and the Internet, and that access is continually being expanded and

improved. Customer satisfaction is routinely measured and tracked to assess how well these communications and service improvements have worked. Communication Specialists in each district office were charged with directing and coordinating all communications efforts with special focus on addressing communications goals.

During FY 2003, 2,537,669 calls were received in the 12 district offices. Each district office averaged more than 17,600 calls each month. The national average wait time was 2.96 minutes, considerably below the pledged goal of five minutes. Of particular significance is that nationwide, 76.3 percent of all calls to the district offices were resolved on first try, representing an improvement of 13 percentage points over the FY 2002 benchmark.

The use of local telephone surveys as a means to assess telephone service in each office continued during FY 2003. These survey results, along with other measurements, are reported and monitored through the Regional Quarterly Communications Plans. During FY 2003, while the majority of telephone caller questions were addressed at the time of the initial call, survey respondents with issues requiring a call-back reported receiving a response, on average, within three days. More than 96 percent of those surveyed indicated that the district office staff was courteous. Nearly 95 percent of respondents felt the district office staff provided knowledgeable and accurate information. Ninety-seven percent of those surveyed reported that the language used by the district office was clear and understandable. In the National Call-Back Survey, 85 percent of respondents were somewhat or very satisfied by the district office's performance overall. This marks a three percent increase over FY 2002 survey results.

In FY 2003, the FEC program consolidated its medical authorization and bill payment processes with a private sector company. This resulted in the opportunity to redeploy staff previously performing these functions in each of the district offices. In keeping with our commitment to improving customer service, the program shifted these staff members to Customer Service Representative positions. These positions were designed to provide a high level of “front line” customer service to injured workers, employing agency representatives, and others contacting the district offices for information and assistance. A comprehensive training program was developed and implemented. In addition to specific FECA content, the training sessions and materials addressed telephone customer service skills. An important component of the training program was the use of scenarios based upon real life experiences for the Customer Service Representatives to practice their phone skills and computer applications simultaneously. The first training sessions were held in August 2003, and by the end of the fiscal year, over 125 Customer Service Representatives had been trained. Due to the dedication of additional resources in this area, the FEC program determined that the district offices would be capable of handling the volume of telephone calls being routed to the National Call Center. Effective October 2003, the FEC program ended its contract with the call center and redirected callers to their district office for service.

PERFORMANCE ASSESSMENT

OWCP continues to address recommendations stemming from a FY 2002 Program Assessment Rating Tool (PART) review. In that review, FEC was rated “Moderately Effective” for having a rational program design and clear, ambitious, outcome-oriented goals that are properly aimed at

returning individuals to work and containing Federal costs. To address the PART recommendations, OWCP continued in FY 2003 to implement the following reforms:

Re-proposed legislation to update the benefit structure, improve benefit equity, and adopt best practices of state workers' compensation systems.

Began an independent evaluation of FEC program effectiveness and review of industry best practices.

Used revised methods to estimate Federal agencies' FECA liability to ensure timely submission of these data to Federal employing agencies.

Participated in DOL efforts to develop a Managerial Cost Accounting system.

Began measurement of communications services levels and improvement of customer satisfaction.

Continued to develop the Safety, Health and Return-to-Work (SHARE) initiative jointly with the Occupational Safety and Health Administration to achieve government-wide goals for reducing injuries and lost production days and improving timeliness of injury reporting.

Services to Employing Agencies

During FY 2003, the FEC program continued to provide a variety of technical assistance and other services to employing agencies.

SAFETY, HEALTH, AND RETURN-TO-EMPLOYMENT

In September 2002, the Secretary of Labor implemented the President's new three-year initiative – Safety, Health, and Return-to-Employment or SHARE – which builds on the accomplishments and outreach efforts of the Federal Worker 2000 initiative over the last four years.

SHARE calls on all Federal agencies to establish ambitious but reachable goals with regard to decreasing total, lost-time and high-incident-worksite case rates; increasing timeliness of claims filing; and reducing lost production days for injured workers.

OWCP and DOL's Occupational Safety and Health Administration (OSHA) will jointly manage the initiative and annually report on progress to the President. OWCP and OSHA will partner with Federal agencies to establish their 2003 baseline performance in these areas and to provide guidance and assistance in setting and meeting individual agency goals.

TIMELY SUBMISSION OF NOTICES AND CLAIMS

FEC program regulations require employing agencies to submit a Notice of Injury (Form CA-1) or a Notice of Occupational Illness (Form CA-2) within 10 working days (or 14 calendar days) of receipt from an employee if lost time or medical expenses are claimed or expected. In addition, the employer is required to submit the initial wage-loss claim (Form C-7) no more than five working days (or seven calendar days) after receipt from the employee. OWCP's ability to act promptly on medical bills and prevent any interruption of income is directly and critically related to the early submission of these forms.

As part of the SHARE, all agencies were called upon to improve timeliness of reporting of injuries and illnesses by five percent each year. During FY 2003, the FEC program and OSHA collaborated on ways to improve outreach programs to employers emphasizing the need for improvement in the timely submission of notices of injury and occupational illness and claims for wage loss. Agency focus groups convened in July and August of 2003 and

Federal Employees' Compensation Act

	FY 2002	FY 2003
Number of Employees (FTE Staffing Used)	1,000	1,008
Administrative Expenditures*	\$ 110.4 M	\$ 129.6 M
Cases Created	158,118	168,174
Wage-Loss Claims Initiated	23,193	24,245
Total Compensation and Benefit Payments (Actual Obligations)**	\$2,307.9 M	\$2,345.5 M
Number of Medical Bills Processed	3,425,810	3,094,691

*OWCP expenditures; excludes DOL support costs, but includes "fair share" capital investment costs of \$29.2 million in FY 2002 and \$43.3 million in FY 2003, respectively.

**Compensation, medical, and survivor benefits.

provided valuable ideas about how to improve performance in this area. There has been a notable increase in the timeliness of submissions of notices, from 57 percent in FY 2002 to 63 percent in FY 2003. Timeliness of submission of claims for wage loss also increased during FY 2003 to 48 percent from 43 percent in FY 2002. While all agencies are provided with data on their timeliness and lost production days performance, the FEC continues to post data on the performance of the largest Federal agencies on the OWCP/DFEC web site (<http://www.dol-esa.gov/share/>).

In return for timely submission and in keeping with the long-standing emphasis OWCP has placed on it, OWCP has promised and delivered even earlier interventions. The result has been continued improvement in timely filing by many employing agencies and an overall reduction in lost production days.

Black Lung Benefits Act

2003

Introduction
In 2003, OWCP's Division of Coal Mine Workers' Compensation (DCMWC) completed its thirtieth year administering Part C of the Black Lung program. The

initial Black Lung benefits program was enacted as part of the Coal Mine Health and Safety Act of 1969, the first comprehensive Federal legislation to regulate health and safety conditions in the coal industry. This law created a temporary system to compensate past victims of dust exposure in the mines with public funds administered by the Social Security Administration (SSA).

The number of claims filed in the early 1970's far exceeded pre-enactment estimates. The Act was amended by the Black Lung Benefits Act of 1972 (BLBA) to require the use of simplified interim eligibility criteria for all claims filed with SSA, and to transfer the receipt of new claims to the Department of Labor (DOL) in 1973. OWCP assumed responsibility for processing and paying new claims on July 1, 1973. Most of the claims filed prior to that date remained until recently within the jurisdiction of SSA.

Early in 1978, Congress enacted two new statutes that further amended the Act. The Black Lung Benefits Reform Act of 1977 (Public Law 95-239) again mandated the use of interim criteria based on the use of presumptions to resolve old unapproved claims. Public Law 95-227, the Black Lung Benefits Revenue Act of 1977, 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 coal mine operator could be located and transferred liability for all claims filed with DOL based on employment in the coal industry before 1970 from individual employers to the Trust Fund. These amendments made the Federal program permanent, although state benefits would continue to offset Federal compensation wherever they were available.

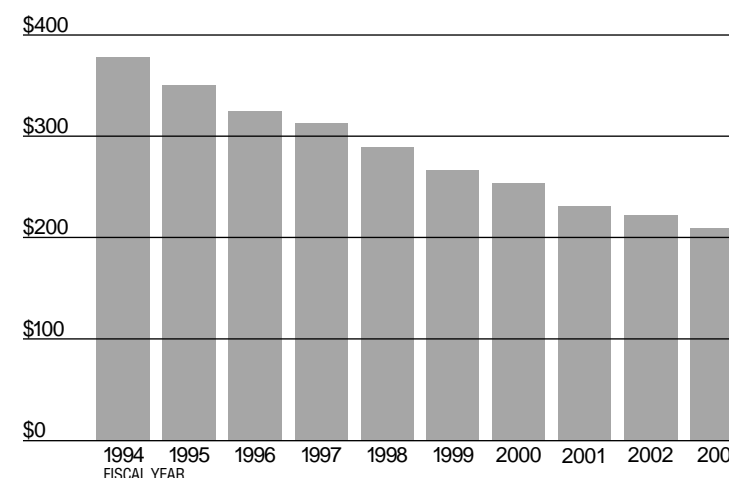
Current administration of the Black Lung Part C program is governed by 1981 legislation: Title I is the Black Lung Benefits Revenue Act of 1981, and Title II is the Black Lung Benefits Amendments of 1981. The 1981 Amendments tightened eligibility standards, eliminated certain burden of proof presumptions, and temporarily increased the excise tax on coal to address the problem of a mounting insolvency of the Trust Fund, which was by then indebted to the U.S. Treasury by over \$1.5 billion.

The 1981 amendments slowed but did not stop the growth of the Trust Fund debt, which by the end of 1985 had surpassed \$2.8 billion. The Consolidated Omnibus Budget Reconciliation Act of 1985, enacted in 1986, increased the excise tax by an additional 10 percent through December 31, 1995, and put into effect a five-year moratorium on the interest charges due the Treasury on the Trust Fund's accumulated debt. In late 1987, Public Law 100-203 extended the duration of the increased tax rates through December 31, 2013. These budget-related legislative actions made no further changes in the Act's eligibility criteria and adjudication procedures.

On September 26, 1997, officials from SSA and DOL signed a Memorandum of Understanding transferring responsibility for managing currently active SSA (Part B) Black Lung claims to DOL. This change was aimed at ending confusion about which Federal agency handles the claims and enhancing customer service to all Black Lung beneficiaries.

Black Lung Benefit Expenditures

IN MILLIONS OF CONSTANT DOLLARS*



*Current dollars deflated by CPI-W (urban wage earners and clerical workers, U.S. city average, all items), 1982-1984=100.

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 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.

The program provides two types of medical services related to pneumoconiosis (black lung disease): diagnostic testing for all miner claimants to determine the presence or absence of black lung disease, and the degree of associated disability; and medical coverage for treatment of black lung disease and directly related conditions for miners entitled to monthly benefits.

Total DOL Black Lung program expenditures for these benefits in Fiscal Year (FY) 2003 were \$370.4 million, a decrease of \$13.8 million from FY 2002.

In FY 2003, benefits were provided from the Trust Fund to approximately 43,000 beneficiaries each month. The Trust Fund had a balance of \$30.4 million at the end of FY 2003, with an outstanding debt to the Treasury of \$8.2 billion.

In FY 2003, the United Mine Workers of America (UMWA) Health and Retirement Funds were reimbursed \$4.9 million from the Trust Fund for black lung-related medical care provided by them to UMWA/DCMWC joint beneficiaries.

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 year DCMWC processed 86 fee petitions and paid approximately \$0.6 million in attorneys' fees from the Trust Fund.

In FY 2003, 2,026 claims were forwarded for formal hearings before the Office of Administrative Law Judges (OALJ) and 411 claims were forwarded for appeals to the Benefits Review Board (BRB). At the end of FY 2003, the OALJ had 2,131 claims pending while 391 were pending before the BRB.

In the Black Lung Part B program, nearly 59,000 active beneficiaries were receiving approximately \$33 million in monthly cash benefits as of September 30, 2003. Part B benefits in FY 2003 totaled more than \$416 million.

Medical Services

The Black Lung Part C program provides both diagnostic and medical treatment services. 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 (breathing test), 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 specific approval, are items of durable medical equipment, like hospital beds, home oxygen, and nebulizers; outpatient pulmonary rehabilitation therapy; and home nursing visits.

Total medical expenditures under the Black Lung Part C program during FY 2003 were \$63.0 million. This includes payments of \$5.1 million for diagnostic services, \$53.0 million for medical treatment, and \$4.9 million in reimbursements to the UMWA Health and Retirement Funds for costs of treating Black Lung beneficiaries. Approximately 401,000 bills were processed during the year.

Accomplishments

GOVERNMENT PERFORMANCE AND RESULTS ACT

In FY 2003, DCMWC achieved its indicator under OWCP's goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families." The DCMWC achieved its goal to:

Increase by four percent over the FY 2001 established baseline the percentage of Black Lung benefit claims subject to the revised regulations for which, following an eligibility decision by the district director, there are no requests for further action from any party pending one year after receipt of the claim.

In FY 2003, 86.6 percent of claims had no pending requests for further action after one year (versus the target of 70.5 percent). These results were largely a factor of the large number of marginal cases that were re-filed under the new regulations and subsequently withdrawn. Sustaining these levels is expected to be more difficult in the coming years. The Black Lung program plans to continue to provide technical assistance with stakeholder communities, and work with Black Lung's authorized diagnostic provider community to evaluate service delivery to ensure timeliness and quality standards are maintained and performance standards met.

IMPLEMENTATION OF NEW PROGRAM REGULATIONS

On August 9, 2001, Judge Emmett Sullivan ruled against a challenge to the regulations developed in accordance with the provisions of Executive Order 12866 that was filed by the National Mining Association and others. In upholding DOL's regulations, Judge Sullivan found in favor of the Government on every count. Judge Sullivan also lifted his partial stay order and the Black Lung program began issuing schedules for the submission

of additional evidence. On June 14, 2002, the U.S. Court of Appeals for the D.C. Circuit issued a decision upholding all but one of the revised regulations. *National Mining Ass'n v. Chao*, 292 F.3d 849 (D.C. Cir. 2002). During the first year the revised regulations were in effect, claims receipts increased to over 7,800. However, adjudication of these claims was delayed because of the stay issued by the court.

The revised regulations have streamlined the claims review process for miners and other claimants. The number of new claims declined from 6,998 during FY 2002 to 5,224 during FY 2003. After having gained a year of experience in developing and adjudicating claims under the revised regulations in FY 2002, DCMWC's major emphasis in FY 2003 was placed on reducing the inventory of claims awaiting decision which had built up during the temporary surge in filings in FY 2001 and FY 2002. The number of claims pending an initial administrative review declined markedly, from 6,157 on September 30, 2002, to 2,299 on September 30, 2003. At the same time, the approval rate on initial review decreased from 9.0 percent to 7.8 percent.

OPERATION AND MAINTENANCE OF AUTOMATED SUPPORT PACKAGE

DCMWC's contract with Computer Science Corporation is the resource for the Black Lung program's Automated Support Package (ASP). The ASP includes a client-server computer system for all black lung claims, statistical and data processing, medical bills processing, telecommunications support, and administrative functions. During FY 2003, revisions and improvements were made in several areas:

The Claimant and Payment Subsystem (CAPS) was revised for processing under the new regulations; the changes were in both data entry and reporting, for searching claimant and beneficiary records by name, and for processing claims retired to the Federal Records Center.

The Black Lung Accounting System (BLAS) was augmented by: (1) adding a new account status for claimant overpayments held in abeyance because of appeals on the issue of eligibility for benefits; and (2) adding new reports for responsible operator Accounts Receivable and responsible operator Receivables in Litigation.

DCMWC's automated correspondence system was reconfigured so that data files reside in each staff member's desktop for faster and more efficient retrieval of information by the desktop software.

New reporting software has enabled ad-hoc reporting for users, supervisors and program managers.

DCMWC participated in the ESA Government Paperwork Elimination Act (GPEA) effort, digitizing several of its most important standard forms.

Obsolete personal computers were replaced with up-to-date units.

PART B IMPLEMENTATION AND OPERATIONS

The Division of Coal Mine Workers' Compensation has been responsible for maintenance actions on Part B (originally SSA) Black Lung claims since October 1, 1997. A Memorandum of Understanding between SSA and DOL was signed on September 26, 1997, transferring the responsibility. The purpose of the transfer was to end confusion as to which Federal agency handles Part B claims and to enhance services provided to beneficiaries. The entire black lung claimant population now deals with a single agency; the payoff is more efficient use of governmental resources.

To make the change permanent, the Administration proposed legislation (“The Black Lung Consolidation of Administrative Responsibilities Act”), which was introduced in the Congress as H.R. 5542. President Bush signed this bill into law on November 2, 2002. Responsibility for administration of the Part B program was transferred from the Social Security Administration to the Department of Labor on October 1, 2003.

Significant accomplishments on Part B claims during FY 2003 included:

Completing more than 9,400 maintenance actions, on average less than one week from notification.

Managing the expenditure of more than \$416 million in Part B benefits.

At the end of FY 2003, DCMWC offices were responsible for 58,683 Part B beneficiaries with 6,985 dependents.

BLACK LUNG PROGRAM COMPLIANCE ASSISTANCE

During FY 2003, DCMWC sent form letters to 216 coal mine operators reminding them of their statutory requirement to insure and stay insured against their potential liability for paying black lung benefits. Of the 216 operators, 114 were found to be insured, 61 were insured through a parent entity or not engaged in coal mining, 29 were out of business, and five were uninsured. Seven letters were returned unclaimed.

DCMWC staffs a Responsible Operator Unit specifically assigned to keeping records on coal mine operators and their insurance status. The staff answers frequent written and telephone inquiries from operators and insurance carriers, and evaluates requests for self-insurance.

Black Lung Disability Trust Fund

The Trust Fund is administered jointly by the Secretaries of Labor, Treasury, and Health and Human Services. The Trust Fund was established by the Black Lung Benefits Revenue Act of 1977, to shift the responsibility for the payment of black lung benefit claims from the Federal Government to the coal industry. Claims approved by SSA under Part B of the BLBA are paid from the general revenue of the Federal Government.

Trust Fund revenues consist of monies collected from the coal mine industry, under the provisions of the Black Lung Benefits Revenue Act of 1977, as amended, in the form of an excise tax on mined coal that is sold or used by producers; funds collected from responsible mine operators (RMOs) for monies they owe the Trust Fund; payments from 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. Total receipts of the Trust Fund in FY 2003 were over \$1.0 billion.

The major source of revenue to the Trust Fund is an excise tax on mined coal sold or used by producers. The tax is collected by the Internal Revenue Service (IRS), U.S. Department of the Treasury, and transferred to the Trust Fund on a monthly basis. In 1981, as an amendment to the IRS Code of 1954, the Black Lung Benefits Revenue Provisions added a temporary special tax, increasing 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.



Management Of SSA Part B Black Lung Claims In FY 2003

Professional And Timely Claims Maintenance Services Provided To Part B Claimants By DCMWC Included:

- Completing More Than 9,400 Maintenance Actions, With Average Completion Time Of Less Than One Week From Notification.**
- Managing The Expenditure Of More Than \$416 Million In Benefits.**

DCMWC Was Responsible For Nearly 59,000 Active Part B Cases.

In 1986, Congress passed the Consolidated Omnibus Budget Reconciliation Act of 1985, which further increased excise tax rates by 10 percent and imposed a five-year moratorium on the accrual of interest on all repayable advances, which expired on September 30, 1990. The rates (per ton) for underground and surface mined coal were raised to \$1.10 and \$0.55 respectively, and the cap was increased to 4.4 percent of the sales price, for the period October 1, 1985, through December 31, 1995. In December 1987, Public Law 100-203 lengthened the duration of these increased tax rates to December 31, 2013, 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.

In FY 2003, the Trust Fund received a total of \$506.1 million in tax revenues. In comparison, the revenue levels in FY 2002 and FY 2001 were \$566.6 million and \$522.2 million, respectively.

An additional \$6.8 million was collected from RMOs in interim benefits, fines, penalties, and interest during FY 2003. These funds directly contribute to reducing the amount of repayable advances needed by the Trust Fund.

Trust Fund expenditures are made for:

Monthly and medical benefits to eligible miners and/or their families for approved claims involving miners whose mine employment ended before 1970, or for claims in which no

operator liability can be determined.

Administrative costs incurred in the operation of the Black Lung program.

Accrued interest on repayable advances from the Treasury.

Repayable advances are obtained from the U.S. Treasury when Trust Fund resources are not sufficient to meet program obligations. These advances are to be repaid to Treasury's General Fund with interest. Growth in the Fund's debt (advances outstanding) slowed considerably during 1986-90 due to a legislated moratorium on the accrual of interest on advances and larger than expected increases in tax revenues. Interest payments resumed in 1991, and by the end of FY 2003, the Trust Fund's cumulative debt to the U.S. Treasury was \$8.244 billion. Although tax receipts to the Trust Fund were sufficient to cover everyday operating costs and approximately \$90 million of interest charges, repayable advances from the Treasury in the amount of \$525 million were required to fund the remainder of the interest payments due on this debt for FY 2003.

Total Trust Fund disbursements during FY 2003 were \$1.0 billion. These expenditures included \$370.4 million for benefits (income benefits of \$307.4 million and medical benefits of \$63.0 million), \$620.6 million for interest payments, and \$55.3 million to administer the program (\$32.0 million in OWCP direct costs and \$23.3 million for legal adjudication and various financial management and investigative support provided by the Office of the Solicitor, Office of Administrative Law Judges, Benefits Review Board (BRB), Office of the Inspector General, and the Department of the Treasury).

Legislative Proposal on Trust Fund Debt

The Black Lung Disability Trust Fund was created by Congress in 1978 to provide compensation benefits paid from revenue raised by an excise tax on coal sold. When these revenues were insufficient to meet benefit payments and other costs, the Trust Fund could borrow funds from the U.S. Department of the Treasury.

Benefit pay-outs in the late 1970's and early 1980's far exceeded revenues, necessitating large advances. Although benefits and other operating costs are now sufficiently covered by incoming revenues, the Trust Fund's debt continues to climb, reaching the \$8.2 billion level by the close of FY 2003. The Trust Fund now must borrow to cover its debt service, which amounted to over \$620 million at the end of FY 2003.

To remedy this financial problem, DOL and Treasury proposed a legislative package which would:

Provide for the restructuring of the outstanding Trust Fund debt, much of which was incurred at the higher Treasury interest rates that prevailed during the 1980's, thereby taking advantage of current and lower Treasury interest rates.

Extend until the debt is repaid the Trust Fund excise tax levels (\$1.10 per ton for underground-mined coal sold; \$0.55 per ton for surface), which are set to decline after December 31, 2013. The tax rate will revert to the lower (original 1978) rates of \$0.50 per ton for underground-mined coal sold and \$0.25 per ton for surface in the year following the elimination of the Trust Fund's debt.

Provide a one-time appropriation to the Trust Fund to cover the loss to the Treasury caused by the restructuring.

Insurance/Self-Insurance

Section 423 of Black Lung Benefits Act requires that each coal mine operator subject to the Act secure payment of any benefits liability by either qualifying as a self-insurer or 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 \$1,100 for each day of noncompliance. State workers' compensation laws also 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 would be offset or reduced by the amount of the state benefit on a dollar-for-dollar basis. As of September 30, 2003, there were 1,769 Federal black lung claims being offset due to concurrent state benefits.

Regulation of insurance carriers and the premium rates they charge has been and continues to be the responsibility of the states where they operate. Twenty-six states set occupational disease premium

rates for underground coal mine exposure. The rates vary on a state-by-state basis due to such factors as the population of miners in the state, the number of claims filed, and the cost of benefits.

According to FY 2003 estimates by DOL's Mine Safety and Health Administration, there were 1,537 active coal mine operators subject to the requirements of the Act. The Secretary of Labor authorized 96 companies to self-insure. These authorizations cover approximately 380 subsidiaries and affiliated companies.

Performance Assessment

In 2003 the Black Lung program was assessed using the Program Assessment Rating Tool (PART). The PART found that:

The program purpose is clear.

DOL has achieved a relatively low erroneous payment rate for the program (less than two percent).

The Trust Fund has a large and growing debt. Excise tax revenue is now sufficient to cover the cost of benefits and administration, but the Trust Fund must borrow more each year to service its debt.

The program has one goal focused on reducing the number of cases requiring lengthy appeals. In 2002 and 2003, performance exceeded the targets by a large margin (although the PART found that 2002 and 2003 levels are anomalous and that performance will likely drop in 2004 and future years). Case processing time and medical cost containment goals are being added in 2004 and 2005, respectively. While claims processing goals are output goals, they reflect the core purpose of the program: to provide benefits to minimize the hardship imposed by black lung disease.

DOL's Office of Administrative Law Judges (OALJ), Benefits Review Board (BRB), and Solicitor play critical roles in Black Lung claims processing, but only BRB has established performance goals for the adjudication of these claims.

No data are available to compare the Black Lung program's outputs, outcomes, cost-effectiveness, or efficiency with those of similar compensation programs.

Based on the PART findings, DOL will:

Re-propose legislation to refinance and ultimately retire the Trust Fund debt.

Periodically review actual performance vis-a-vis targets and modify targets to ensure that they remain challenging.

Determine what comparable medical cost trend should be used to evaluate medical cost containment performance.

Establish performance goals for the OALJ, BRB, and Solicitor that are ambitious and contribute to efficient adjudication of Black Lung claims.

Track and report on productivity (output per full-time-equivalent employee) in order to gauge efficiency and year-to-year changes.

Conduct an independent evaluation of the Black Lung program that includes a comparison of program outcomes and efficiency to other similar programs.

Litigation

COURTS OF APPEALS

During FY 2003, the courts of appeals issued 73 decisions in cases arising under the Black Lung Benefits Act. In addition, 59 appeals were filed. The following summarizes the most significant appellate decisions.

Settlement of Claims Prohibited. In *Ramey v. Director, OWCP*, 326 F.3d 474 (4th Cir. 2003), the Fourth Circuit held that the plain language of the Black Lung Benefits Act prohibits the settlement of claims. It explained that the Act incorporates sections 15 and 16 of the Longshore and Harbor Workers' Compensation Act, which prohibit the waiver and release of compensation, but does not incorporate section 8 of the Longshore Act, which allows the settlement of claims in certain circumstances. The court concluded, therefore, that the Act "on its face, prohibits settlements." The court recognized "that settlement is a generally accepted—and often preferred—means of dispute resolution," but concluded that "the statute means what it says, and it is for Congress to change the statute if Congress intends a different result."

Requests for Admission. In *Johnson v. Royal Coal Co.*, 326 F.3d 421 (4th Cir. 2003), the Fourth Circuit held that the Department's Office of Administrative Law Judges rule (29 C.F.R. 18.20) that allows a party to serve a request for the admission of a matter of fact, and provides that the matter is admitted unless the other party timely responds, applies in black lung proceedings. In this case, the claimant

served requests for admission that would have conclusively established his entitlement to benefits. The employer failed to respond. The ALJ denied benefits without addressing the effect of the admissions, and the Benefits Review Board affirmed. The Fourth Circuit reversed and ordered an award of benefits, holding that by failing to respond to the requests for admission the employer admitted that the claimant is entitled to benefits.

Benefits Commencement Date. In *Amax Coal Co. v. Director, OWCP*, 312 F.3d 882 (7th Cir. 2002), the Seventh Circuit rejected the employer's argument that the Department's benefits-commencement-date regulation is invalid because it violates the Administrative Procedure Act by impermissibly shifting the burden of proof to the employer. The regulation provides that when evidence does not establish the precise date upon which the miner became totally disabled due to pneumoconiosis, benefits should be paid from the date the claim was filed. The court construed the regulation as a rebuttable presumption; the employer can rebut the presumption that the miner was totally disabled on the filing date by producing evidence that the miner was not totally disabled at some point after the filing date. The court explained: (1) the regulation is not inconsistent with the APA because it shifts only a burden of production, not the burden of proof, to the employer; and (2) even assuming the regulation is inconsistent with the APA, it is not invalid because the Secretary has statutory authority to deviate from the APA by regulation.

Treating Physician Opinions. Following a theme that began last year, the Sixth Circuit issued two opinions discussing the weight to be accorded treating physicians' medical opinions. In *Eastover Mining Co. v. Williams*, 338 F.3d 501 (6th Cir. 2003), the ALJ had awarded survivor benefits because he was persuaded by the miner's treating physician that pneumoconiosis was a contributing cause of the miner's death. The court reversed the award. It noted that a treating physician's opinion, like any medical opinion, must be critically evaluated by the

ALJ. The court found several flaws in the treating physician's opinion at issue here, including that the opinion was equivocal and failed to explain how pneumoconiosis contributed to the miner's death. On the other hand, the court concluded that the medical opinions offered by the employer were credible and required the denial of benefits.

In *Peabody Coal Co. v. Odom*, 342 F.2d 486 (6th Cir. 2003), the court applied *Eastover Mining*, but this time it affirmed an award of benefits. Here the ALJ had been persuaded by the opinion of a treating physician who is Board-certified in internal medicine and pulmonary disease, and who had treated the miner for a 16-year period. In addition, the court agreed with the ALJ that the physician had authored credible, well-documented medical reports and treatment notes. It concluded that the ALJ properly accorded additional weight to the physician's opinion.

Issue Preclusion (i.e., Collateral Estoppel). In *Zeigler Coal Co. v. Director, OWCP*, 326 F.3d 894 (7th Cir. 2002), the Seventh Circuit upheld the ALJ's conclusion that the employer was precluded from asserting in this case involving a claim for survivor benefits that the miner, who had been awarded benefits against the employer during his lifetime, did not have pneumoconiosis. The finding of pneumoconiosis had been necessary to the miner's award, and the employer had actually litigated the issue and lost in the miner's claim. Thus, the court concluded that "straightforward application of offensive non-mutual issue preclusion" bound the employer to the finding of pneumoconiosis made in the miner's claim.

Witness Fees. Section 28 of the Longshore and Harbor Workers' Compensation Act is incorporated into the Black Lung Benefits Act and provides that in cases where an attorney's fee is awarded against an employer, "fees and mileage for necessary witnesses attending the hearing at the instance of claimant" may also be assessed against the employer. In *Zeigler Coal Co. v. Director, OWCP*,

326 F.3d 894 (7th Cir. 2003), the Seventh Circuit held that the claimant was entitled to witness fees even though his medical experts did not appear in person at the ALJ hearing. The court stated that the statutory phrase "attending the hearing" is ambiguous. It concluded that it would make no sense to require the physical presence of the witness before fees could be shifted because black lung cases are almost always decided on the basis of written reports and deposition testimony, and live testimony would greatly increase the time and expense of each hearing and therefore unduly burden the black lung program.

BENEFITS REVIEW BOARD

During FY 2003, DOL filed over 475 pleadings with the Benefits Review Board. The Board issued several decisions which significantly affect the Secretary's administration of the benefits program.

Attorney Fees. The revised program regulations include a new provision requiring responsible coal mine operators to pay simple annual interest on unpaid attorney fees from the date the fee is awarded. The regulation applies to all claims pending on or filed after its effective date – January 19, 2001. In *Frisco v. Consolidation Coal Company*, 22 Black Lung Rep. 1-321 (2003), the Board held that the revised regulation is not impermissibly retroactive and may be applied to pending claims. The Board reasoned that because pre-existing legal precedent permitted imposition of interest for unpaid attorney fees against coal mine operators, the regulation imposed no new burdens on operators. The Board also held that the plain language of the regulation requires that the interest be paid from the date the fee is initially awarded.

Collateral Estoppel. The doctrine of collateral estoppel precludes a party from re-litigating an issue identical to an issue decided against it in an earlier claim. Offensive collateral estoppel refers to a plaintiff foreclosing a defendant from litigating an issue the defendant previously lost in an action with another party. During FY 2003, the Board issued two decisions limiting the use of offensive collateral estoppel in black lung claims filed by the survivors of miners who were awarded benefits. In *Collins v. Pond Creek Mining Company*, 22 Black Lung Rep. 1-229 (2003), the Board held that a survivor could not rely on offensive collateral estoppel to foreclose litigation of whether the miner had coal workers' pneumoconiosis. The Board reasoned that the issues were not sufficiently identical because intervening Fourth Circuit precedent, which controls the widow's claim, altered the manner in which the fact finder must weigh evidence of pneumoconiosis. The second case involved a miner who had established the existence of pneumoconiosis based on a rule that allowed claimants to prevail when the evidence was equally probative. The rule was later invalidated by the Supreme Court, which held that claimants must establish their claims by a preponderance of the evidence. The Board held that because the widow now faces a higher burden of proof than did the miner, collateral estoppel does not apply. *Sturgill v. Old Ben Coal Company*, 22 Black Lung Rep. 1-314 (2003).

Total Disability. The Director has long taken the position that a non-pulmonary condition that causes an independent disability unrelated to the miner's pulmonary disability is not relevant to a determination of whether the miner is totally disabled due to pneumoconiosis. A revised regulation codifies this position, but applies only to claims filed after the regulation's January 19, 2001 effective date. In *Bateman v. Eastern Associated*

Coal Corporation, 22 Black Lung Rep. 1-255 (2003), the Board held that Fourth Circuit precedent is consistent with the Director's position, and would not preclude entitlement based on a pre-existing totally disabling non-pulmonary impairment in claims not controlled by the new regulation.

Calculating Length of Coal Mine Employment. The length of a miner's coal mine employment must be determined to establish the identity of the responsible coal mine operator, which among other requirements, must have employed the miner for one year. A program regulation describes one permissible method of calculating the length of coal mine employment in the absence of evidence of the beginning and ending dates of that employment. The Director interprets that regulation to allow the fact finder to infer a year of coal mine employment based on evidence that the miner actually worked at least 125 days with the operator. The Board held that the Director's interpretation is unreasonable because, in its view, it is inconsistent with another program regulation that requires proof of a full calendar year of employment to impose liability on the operator. *Clark v. Barnwell Coal Company*, 22 Black Lung Rep. 1-275 (2003).

Medical Benefits. The Act requires that a responsible coal mine operator pay for the medical treatment of a miner's pneumoconiosis. In *Kenner v. Tennessee Consolidated Coal Company*, 22 Black Lung Rep. 1-287 (2003), a miner with terminal pneumoconiosis requested that he be allowed to undergo a lung transplant. The miner's physicians stated that a transplant was the only treatment with any hope of prolonging the miner's life. The Department approved the procedure. The responsible coal mine operator objected, arguing that a Department of Labor manual issued to health care providers states that organ transplants are not

covered medical treatment under the Act. The Board held that the statute and regulations do not preclude lung transplants as covered medical treatment, and that they control over the non-binding statement in the manual. The fact-finder must decide based on the facts of each case whether a miner's lung transplant is covered under the Act.

ENFORCEMENT

On September 22, 2003, the U.S. Attorney for the Northern District of Alabama filed suit against the former president and secretary of Alabama Land and Mineral Corporation. The suit seeks \$730,000 in civil money penalties assessed against the president and secretary based on the corporation's operation of coal mines without insurance for two years. The cases were pending before the court at the close of FY 2003.

In *Nowlin v. Eastern Associated Coal Corp.*, 266 F. Supp. 2d 502 (N.D.W.V. 2003), a United States district court in West Virginia addressed three procedural issues in an enforcement action brought by a black lung beneficiary under section 21(d) of the Longshore and Harbor Workers' Compensation Act. 33 U.S.C. 921(d) (incorporated into the Black Lung Benefits Act by 30 U.S.C. 932(a), and implemented by 20 CFR 725.604). The court held that: (1) any statute of limitations applicable to a section 21(d) action does not begin to run until the award of benefits for which enforcement is sought becomes final; (2) a beneficiary may seek enforcement of an employer's liability for twenty-percent additional compensation (which is based on failure to timely pay benefits due) in a section 21(d) action; and (3) section 21(d) does not require a beneficiary to obtain a supplementary default order from the OWCP district director before seeking enforcement of an award in district court. The court therefore denied the responsible operator's motion to dismiss. The case was pending before the court on the merits at the close of FY 2003.

Black Lung Benefits Act*

	FY 2002	FY 2003
Number of Employees (FTE Staffing Used)	212	227
OWCP Administrative Expenditures** \$	31.0 M	\$ 31.6 M
Total Compensation and Benefit Payments*** \$	\$ 384.2 M	\$ 370.4 M
Trust Fund Beneficiaries in Pay Status at End of Fiscal Year		
Monthly	44,964	41,974
Medical Benefits Only	6,300	5,322
Responsible Coal Mine Operator Beneficiaries in Pay Status at End of Fiscal Year		
Monthly	6,226	6,079
Medical Benefits Only	1,733	1,546

*Reflects expenditures for Part C claims only; Part B data is published in the Social Security Administration Bulletin.

**Excludes DOL and ESA management, Solicitor, Inspector General, and Treasury administrative costs of \$23.6 million in FY 2002 and \$24.0 million in FY 2003, respectively. Also excludes interest on the Trust Fund debt.

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

Longshore and Harbor Workers' Compensation Act

2003

Introduction
Enacted in 1927, the Longshore and Harbor Workers' Compensation Act (LHWCA) compensates 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 a variety of other employees through the following extensions to the Act:

The Defense Base Act of August 16, 1941, provides the benefits of LHWCA to employees on overseas military, air, or naval bases or other areas under a public works contract performed by contractors with agencies of the United States Government.

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 engaged in exploration for and development of natural resources, such as off-shore drilling enterprises.

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)).

Disability compensation and medical benefits paid by insurers and self-insurers under LHWCA and its extensions totaled approximately \$557.5 million in Calendar Year (CY) 2002, a 2.4 percent increase compared to CY 2001.

Operations

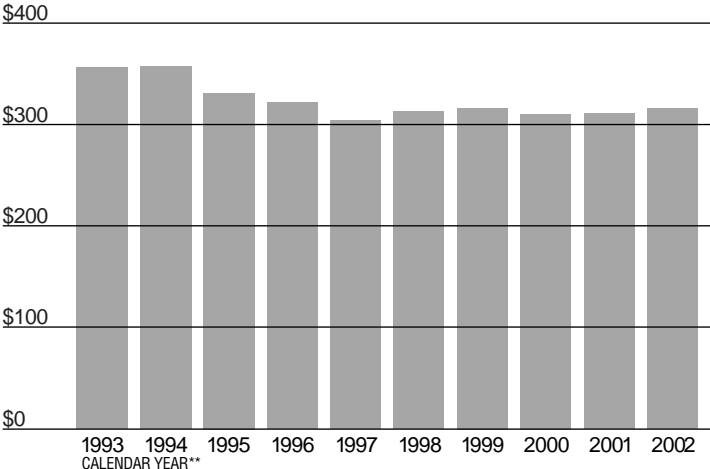
In Fiscal Year (FY) 2003, total expenditures for program operations and the overall administration of LHWCA were \$26.8 million, of which \$10.2 million were the direct costs of OWCP. The remaining \$16.6 million were the costs of legal, audit, and investigative support provided by the Office of Administrative Law Judges (OALJ), Benefits Review Board (BRB), Office of the Solicitor, and the Office of the Inspector General.

At year's end, the Division of Longshore and Harbor Workers' Compensation (DLHWC) employed 101 people in the national office and 11 district offices.

During FY 2003, approximately 330 self-insured employers and 410 insurance carriers reported 20,154 lost-time injuries under the Act. At year's end, 15,425 maritime and other workers were in compensation payment status.

Longshore Benefit Expenditures

IN MILLIONS OF CONSTANT DOLLARS*



*Current dollars deflated by CPI-W (urban wage earners and clerical workers, U.S. city average, all items), 1982-1984=100.
**Includes total industry compensation and benefit payments under LHWCA and its extensions as reported on a calendar year basis.

Conferences and Appeals

A major function of the Longshore claims examiner is the resolution of disputed issues that arise in claims. While not a judge or hearing officer, a claims examiner does function as a mediator in informal proceedings designed to help the parties involved reach amicable agreements and thereby avoid the time and expense involved in formal litigation. In FY 2003, the district offices conducted 2,894 informal conferences that were designed to establish the facts in each case, define the disputed issues and the positions of the parties in respect of those issues, and encourage the voluntary resolution of those issues by means of agreement and/or compromise. At the conclusion of each informal conference, a recommendation for resolving the issues and disposing of the claim is made by the claims examiner. If either the claimant or the employer (or insurance carrier) does not agree with the recommendations made and requests a formal hearing, the case is referred by the Longshore district director to the OALJ. Decisions issued by

administrative law judges are appealable to the BRB whose final decisions (except for those involving the Defense Base Act (DBA)) are then subject to review by the appropriate United States Court of Appeals. Initial review of BRB decisions involving the DBA should be filed in the appropriate United States District Court.

Constituent Services

DLHWC provides technical assistance to the maritime industry and the workers whom the law is designed to serve. Since the passage of the original Act, administrative personnel have helped claimants file and process injury reports and claims. DLHWC program staff carries on this tradition by helping covered workers and their dependents process claims and required reports, and receive information regarding medical and vocational rehabilitation. This aid is not a monetary benefit to the claimant, but it is a valuable asset to an injured worker attempting to seek compensation for an injury.

Longshore district offices also conduct seminars for union members and officials, and for organizations representing industry management. The offices regularly schedule several seminars each year to which employer and employee representatives are invited.

Numbered notices are used by the national office to disseminate information to approximately 600 insurance carriers and self-insured employers.

Accomplishments

GOVERNMENT PERFORMANCE AND RESULTS ACT

In FY 2003, DLHWC achieved its indicator under OWCP's goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families." The DLHWC achieved its goal to:

Reduce by two percent over the baseline the average time required to resolve disputed issues in Longshore and Harbor Workers' Compensation program contested cases.

In FY 2003, disputed issues covered by this measure were resolved in an average of 266 days, 13 days below the target of 279 days. The objective of this indicator is to bring disputed issues to quick resolution enabling earlier benefit delivery and reduction of litigation costs for all parties. The DLHWC has instituted management reforms to focus on this indicator's timeliness objectives and to improve amicability in the proceedings of contested cases and will continue to provide training to Longshore claims staff in order to improve mediation skills.

ADP SYSTEMS/AUTOMATION

In FY 2003, the Longshore program made several enhancements to its automated Longshore Case Management System (LCMS) including:

Finalizing the LCMS Centralization Project. The 12 separate regional LCMS databases were centralized into one database in November and December, 2002. This change allows faster access, easier ad-hoc reporting, advanced back-up security, and better performance reporting along with enhanced security and recovery ability.

Enhancing the Longshore program's internet site. DLHWC has added significant new information to its website, including electronic form submission, the Director's legal briefs, revisions to the Procedures Manual, national average weekly wage and benefit level updates, Industry Notices, and a dedicated email address for Longshore inquiries.

CLAIMS MANAGEMENT INITIATIVE

DLHWC continued its focus on improving its claims management and dispute resolution services during FY 2003.

DLHWC successfully achieved its Government Performance and Results Act (GPRA) outcome measure, significantly improving on the time needed to resolve disputed claim issues.

The district offices focused on using previously provided mediation training and telephonic interventions to enhance the effectiveness of the informal dispute resolution process.

In response to the new Medicare policies concerning future benefit eligibility following claims settlements, DLHWC initiated a comprehensive informational process in which claimants and their representatives are informed of these concerns and possible future implications.

COMPLIANCE ASSISTANCE PLAN

DLHWC has regulatory responsibility in the areas of assuring coverage compliance and overseeing the availability of insurance benefits. To accomplish these goals, DLHWC followed through on a review of coverage compliance with the Tennessee Valley Authority, and enhanced the technical assistance services provided to insurers and employers in cases of insolvencies. Additionally, because of the unusually high use of the Defense Base Act during FY 2003 (due to the military activities in Iraq and other parts of the Middle East), DLHWC provided educational seminars and coverage compliance assistance to Federal agencies, insurance carriers, and contractors.

CUSTOMER SURVEY REDESIGN

DLHWC has contracted with the University of Michigan to implement the American Customer Satisfaction Index. Following the FY 2002 survey to evaluate claimants' experiences in the Longshore claims processing system, during FY 2003 the Longshore program turned its focus to insurers and self-insured employers to measure their satisfaction with DLHWC services. The lessons gleaned from the claimant survey were implemented during FY 2003, and will be the subject of next year's evaluation. These lessons include significant revisions to the information sent to claimants early in the claims process, earlier submissions of those materials, and immediate follow-up on some claims following rehabilitation. The results of this year's insurer/employer survey will be implemented during FY 2004.

INSURANCE INDUSTRY OVERSIGHT

During FY 2003, the insurance industry continued to experience serious economic impacts resulting from ongoing negative influences. Included among these was insufficient premium revenues dating from the early to mid-1990s, recession impacts on investments,

higher than anticipated claims arising from old policies covering asbestosis and other industrial illnesses, and the costs of the September 11, 2001 terrorism attacks. The result of these financial pressures has been a number of insolvencies as well as declining financial stability ratings in the industry. In response to these impacts, the Longshore program has initiated steps to secure the financial integrity and security of the system by:

Continuing the rule promulgation process to address insurance company security deposit requirements.

Improving DLHWC processes for handling insolvencies to ensure seamless benefit delivery to claimants.

Strengthening the review process of applications for authorization to participate in the Longshore program.

Increasing the security deposit requirements for authorized companies that exhibit indications of weakened financial security.

REHABILITATION REFORMS

During FY 2003, and based on the 2002 study of the rehabilitation system, DLHWC implemented a number of program enhancements. These include:

Automation of the rehabilitation referral process.

Revisions to the rehabilitation materials sent to claimants.

Implementation of three separate pilot projects, each focusing more acutely on the placement process and cost control.

Revision of existing policies to allow rehabilitation services for disabled workers not currently receiving compensation benefits and those who have settled their compensation claims.

The results of the innovations will be used to determine a GPRA goal for the Longshore rehabilitation program.

Management of the Special Fund

The Special Fund under the Longshore Act 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 Act 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 Act, and under section 7(e) to pay the cost of medical examinations.

The Special Fund is financed through fines and penalties levied under the Act; payment by employers of \$5,000 for each death case when it is determined that there are no survivors eligible for the 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.

Under section 44(c)(2) of the Act, the expenses of the fund are estimated at the beginning of each CY and each carrier and self-insurer makes prorated payments into the fund. Payments are based on a comparison of the total compensation payments each made on risks covered by the Act and the total of such payments made by all carriers and self-insurers under the Act in the prior year, and a comparison of payments under section 8(f) attributable to the carrier/self-insurer and the total of such payments during the preceding CY. There is a separate fund under the District of Columbia Workmen's Compensation Act that also is administered by OWCP. Payments to and from this fund apply only to the DCCA.

The LHWCA Fund paid \$131.6 million in benefits in FY 2003, of which \$120.0 million went for second injury (section 8(f)) claims. FY 2003 expenditures of the DCCA Special Fund totaled \$11.2 million, of which \$10.0 million went for second injury cases.

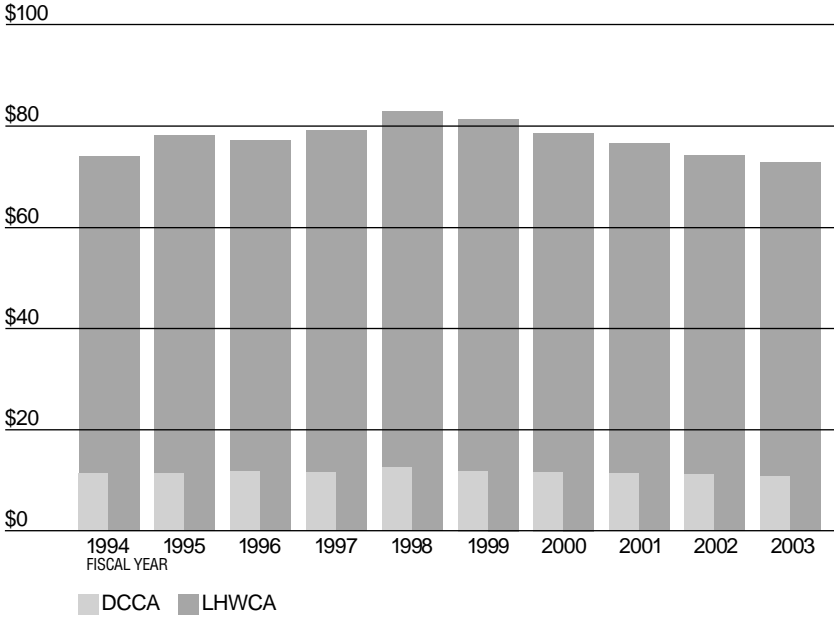
Litigation

The following summarizes the significant decisions issued in the Courts of Appeals during FY 2003 involving provisions of the LHWCA and its extensions.

Additional Compensation Under Section 14(f). In *Hanson v. Marine Terminals Corp.*, 307 F.3d 1139 (9th Cir. 2002), the Ninth Circuit held that a district court may not consider equitable factors when deciding whether to enforce an order requiring the employer to pay twenty percent additional compensation under section 14(f). The court recognized that the provisions of section 14(f) are

LHWCA and DCCA Special Funds' Expenditures, FY 1994-FY 2003

IN MILLIONS OF CONSTANT DOLLARS*



*Current dollars deflated by CPI-W (urban wage earners and clerical workers, U.S. city average, all items), 1982-1984=100.

self-executing and mandate the payment of the twenty percent additional compensation if more than 10 days elapse between the date the underlying compensation amount becomes due and the date it is paid. The court reasoned that the fact a district court's review of a section 14(f) award is limited solely to whether the award was in accordance with law precluded consideration whether the employer has a valid excuse for late payment.

Attorney Fees. In *Richardson v. Continental Grain Co.*, 336 F.3d 1103 (9th Cir. 2003), the Ninth Circuit held that claimant's attorney was not entitled to have his fees paid by the employer where the Board awarded less compensation than the employer had previously offered to settle on one of two injuries and the claimant failed to prevail on the other. Noting that there were no reported cases addressing the "successful prosecution" requirement of section 28(a) of the Act, the court looked to case law

interpreting 42 U.S.C. § 1988 for guidance. The court further held that the failure of the employer to formally refuse to pay the claim within thirty days would not preclude claimant's attorney from recovering fees, were he otherwise entitled to them, because the company did not specifically offer to pay the claim. Finally, the court held that the employer's settlement offer was a "tender" for attorney fee purposes, notwithstanding that the offer was contingent on claimant agreeing to drop his claim.

Coverage: Status. In *Boomtown Belle Casino v. Bazor*, 313 F.3d 300 (5th Cir. 2002), the Fifth Circuit held that a floating casino was a "recreational operation" within the plain language of the section 2(3)(B) exclusion. The court held that application of the 2(3)(B) exclusion turns on the nature of the employing entity, not the nature of the duties an employee performs. Accordingly, the surviving spouse of a worker who suffered a fatal stroke in a temporary tent adjoining the casino boat while it was under construction could not recover benefits as the worker was excluded from coverage as a maritime employee.

In *Maher Terminals, Inc. v. Director, OWCP (Riggio)*, 330 F.3d 162 (3rd Cir. 2003), the Third Circuit held that an employee was covered under the Act even though injured while doing exempt office clerical work because half of his normal duties were covered under the Act. The employee spent half of his time on the job working as a non-covered delivery clerk and half his time as a covered checker. The court held that he was not excluded from coverage under section 2(3)(A) even though he was performing non-covered work on the day of the injury, was not subject to reassignment to perform covered employment that same day, and had not worked as a checker during the two previous weeks.

The court found him to have maritime status because his engagement in indisputably maritime employment was neither momentary nor episodic but part of his regular duties.

Credit for Prior Settlement. In *New Orleans Stevedores v. Director, OWCP (Ibos)*, 317 F.3d 480 (5th Cir. 2003), the Fifth Circuit deferred to the Director's position that amounts that the claimant received from LHWCA settlements with other potentially responsible employers are irrelevant to the amount owed by the responsible employer and do not reduce its liability. The court held that the doctrine established in *Strachan Shipping Co. v. Nash*, 782 F.2d 513 (5th Cir. 1986), under which an employer is entitled to a credit against its liability for amounts paid on a prior scheduled award for an injury to the same member, does not apply to settlements that are an alternative to an entire award against a settling employer.

Disobedience of Lawful Order. The Ninth Circuit considered for the second time the case of *A-Z International v. Phillips*, 323 F.3d 1141 (9th Cir. 2003). In its first decision, 179 F.3d 1187, the court held that the district court, and not the Board, has exclusive jurisdiction to review an ALJ's certification of facts regarding an alleged disobedience of a "lawful order or process" under section 27(b) of the Act. After that decision, the employer presented the ALJ's certification to the district court which dismissed the complaint with prejudice. The Ninth Circuit affirmed, holding that the filing of a fraudulent claim for benefits under the LHWCA does not constitute disobedience of a "lawful order or process" within the meaning of section 27(b). Accordingly, a district court may not hold a claimant in contempt of court for filing a fraudulent LHWCA claim even where an ALJ has issued a certification of fact to that effect.

Last Employer Rule. The Ninth Circuit roiled the already murky waters of the "last employer rule" in *Metropolitan Stevedore Company v. Crescent Wharf & Warehouse Co. (Price)*, 339 F.3d 1102 (9th Cir. 2003). The court held that the employer where the claimant worked at the time he aggravated a prior knee injury is his "last employer," fully responsible for the claimant's compensation under the Act, even where the aggravation resulted from just one day's work and the claimant had previously scheduled knee surgery prior to that single day of employment. The Ninth Circuit applied its "two-injury" variant of the last employer rule to reach this result and rejected the argument that the claimant's disability was not increased by the single day of employment. Instead, the court found the fact that the work caused the medical condition to be aggravated enough to impose liability. The employer found liable to pay benefits has petitioned the Supreme Court for a writ of certiorari.

In *New Haven Terminal Corp. v. Director, OWCP (Lake)*, 337 F.3d 261 (2nd Cir. 2003), the Second Circuit overturned the Administrative Law Judge's decision that the claimant had completely healed from a prior back injury. The court held that the claimant's previous employer was still liable for payment of disability benefits and could not argue that the amount of benefits should be reduced on the ground that the claimant's weekly wage would have decreased as he aged.

In *New Orleans Stevedores v. Director, OWCP (Ibos)*, 317 F.3d 480 (5th Cir. 2003), the Fifth Circuit deferred to the Director's position that the Act's definition of "compensable injury" under section 2(2) does not require a claimant to show a causal link between an occupational disease and employment with a particular employer. Rather, the claimant only needs to show that the disease "arises naturally out of such employment." Thus, an employer may not rebut a finding under the "last employer rule" by showing that there is an absence of a causal link between an employee's job and his injury.

Presumption: Section 20(a). In *Ortco Contractors, Inc. v. Director, OWCP (Charpentier)*, 332 F.3d 283 (5th Cir. 2003), the Fifth Circuit overturned the Board and held that a widow could not recover benefits where her husband's heart attack was not related to his employment. The court held that the Board applied the wrong evidentiary standard in requiring the employer to "rule out" every conceivable connection between the decedent's cardiac arrest and his employment. Several physicians provided uncontradicted testimony that decedent's heart attack began the night before his shift and, if he had not sought medical treatment, he would have reached full-blown cardiac arrest whether he was at work or not.

Special Fund: Contribution. The Fourth Circuit issued four opinions within the span of four days applying *Director, OWCP v. Newport News Shipbuilding and Drydock Co. (Carmines)*, 138 F.3d 134 (4th Cir. 1998). In all four decisions, the court reiterated its position that in order for an employer to limit its liability under section 8(f) of the Act, the employer must demonstrate that a claimant's most recent injury alone would not have rendered him permanently disabled.

In *Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Cherry)*, 326 F.3d 449 (4th Cir. 2003), the Fourth Circuit upheld the Benefits Review Board's denial of section 8(f) relief to the employer on the ground that the employer failed to

establish a pre-existing permanent partial disability. However, the court went on to discuss the contribution element in an effort to further explain its holding in *Carmines*. One member of the panel concurred in the result but dissented over the inclusion of the contribution discussion because it was not necessary to the decision.

In a case involving a retiree with a pulmonary occupational disease, the Fourth Circuit faced a factual scenario very similar to that in *Carmines* and reiterated the holding that in order for an employer to obtain section 8(f) relief, it must present evidence assessing the degree of disability that claimant would have suffered from the compensable disease alone. *Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Pounders)*, 326 F.3d 455 (4th Cir. 2003). Such evidence is required to quantify the extent to which claimant's ultimate disability materially and substantially exceeded the disability that would have resulted from the compensable disease alone. Employer does not satisfy its burden under *Carmines* simply by subtracting the percentage of impairment suffered as a result of a prior lung disease from the current percentage of impairment. In a separate concurrence, one member of the panel expressed sympathy with the employer's claim that it is difficult to obtain evidence that satisfies the quantification requirement.

In a 2-1 decision, the Fourth Circuit upheld the Board's decision affirming an ALJ's denial of section 8(f) in a case where the employee suffered two separate back injuries. *Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Ward)*, 326 F.3d 434 (4th Cir. 2003). The court agreed with the determination that the employer failed to quantify the extent to which claimant's ultimate permanent partial disability materially and substantially

exceeded the disability that would have resulted from the most recent injury alone. Where employer's physician failed to quantify the percentage of disability created by the second back injury alone, section 8(f) relief was not available.

Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Winn), 326 F.3d 427 (4th Cir. 2003) resembled *Pounders* in many pertinent aspects. The court held that the employer did not demonstrate that claimant had a prior disability that aggravated his asbestosis even though claimant admitted to smoking a pack of cigarettes a day for forty-five years because the employer's medical reports failed to quantify the percentage of disability claimant would suffer from asbestosis alone. The court reiterated that an employer must demonstrate the degree of disability claimant would have from his most recent occupational disease alone, independent of any prior disease and that this quantification requirement may not be met through the "subtraction method" discredited in *Carmines*.

Special Fund: Pre-existing Permanent Partial Disability. In *Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Cherry)*, 326 F.3d 449 (4th Cir. 2003), the Fourth Circuit upheld the Benefits Review Board's denial of section 8(f) relief to the employer for failure to establish the existence of a pre-existing permanent partial disability within the meaning of section 8(f). The only evidence employer submitted on this point consisted of a written medical opinion that was riddled with factual and medical errors.

Statute of Limitations. In *Bath Iron Works Corp. v. Knight*, 336 F.3d 51 (1st Cir. 2003), the First Circuit held that a widow had no reason to suspect her husband's death was related to his asbestos exposure until she read a doctor's report more than two years after his death was correct. Accordingly, the "discovery rule" of section 13(b)(2) of the Act permitted the widow to bring her claim within two years of her awareness of the relationship between the employment, the disease and her husband's death.

Statutory Construction: Vessel. In its second reported decision involving a dredge worker injured while working on the Ted Williams tunnel in Boston Harbor, the First Circuit affirmed the district court's grant of summary judgment to the employer thereby denying relief under LHWCA section 5(b). *Stewart v. Dutra Construction Co., Inc.*, 343 F.3d 10 (1st Cir. 2003). Although the court previously held that the special purpose watercraft (a large dredge called the Super Scoop) that claimant worked upon was not a "vessel" for the purpose of determining whether the Claimant was a "seaman" under the Jones Act, 230 F.3d 461, the employer conceded that it was a vessel for purposes of LHWCA section 5(b). The Supreme Court has granted *certiorari*, 124 S.Ct. 1414 (2004), and will decide the proper legal standard for determining when a special purpose watercraft is a "vessel." The Supreme Court's decision will impact LHWCA coverage because section 2(3)(G) excludes "a master or member of a crew of any vessel" and instead reserves to such masters or members a remedy under the Jones Act.

Suitable Alternative Employment. The Fourth Circuit joined the Fifth Circuit in adopting the Director's view that a claimant may be found entitled to receive total disability benefits while participating in a vocational rehabilitation program even though he was physically capable of performing suitable alternative employment that would have paid more than he was expected to earn after completing rehabilitation. In *Newport News Shipbuilding and Drydock Co. v. Director, OWCP (Brickhouse)*, 315 F.3d 286 (4th Cir. 2002), the Fourth Circuit followed the Fifth's Circuit's similar holding in *Louisiana Insurance Guaranty Association v. Abbot*, 40 F.3d 122 (5th Cir. 1994). The court also held that an Administrative Law Judge may consider the lack of job security in the alternative employment in determining whether such employment is reasonably available.

Longshore and Harbor Workers' Compensation Act		
	FY 2002	FY 2003
Number of Employees (FTE Staffing Used)	105	101
Administrative Expenditures*	\$ 11.9 M	\$ 12.3 M
Lost-Time Injuries Reported	22,293	20,154
Total Compensation Paid**	\$692.2 M	\$703.6 M
Wage-Loss and Survivor Benefits	\$523.9 M	\$513.1 M
Medical Benefits	\$168.3 M	\$190.5 M
Sources of Compensation Paid		
Insurance Companies**	\$236.7 M	\$246.6 M
Self-Insured Employers**	\$307.7 M	\$310.9 M
LHWCA Special Fund	\$131.7 M	\$131.6 M
DCCA Special Fund	\$ 11.4 M	\$ 11.2 M
DOL Appropriation	\$ 2.9 M	\$ 2.8 M

*Direct administrative costs to OWCP only; excludes DOL support costs of 14.9 million in FY 2002 and 16.6 million in FY 2003.

**Figures are for CY 2001 and CY 2002, 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

2003

Introduction
Congress passed the
Energy Employees
Occupational Illness
Compensation Program
Act (EEOICPA or Act)
in October 2000; Part B
of the Act became
effective on July 31,

2001. Part B of EEOICPA was enacted to compensate current and former employees (or their eligible survivors) of the Department of Energy (DOE), its predecessor agencies, and certain of its vendors, contractors and subcontractors who were diagnosed with radiogenic cancer, chronic beryllium disease, beryllium sensitivity or chronic silicosis as a result of their exposure to radiation, beryllium or silica while employed at covered facilities. Covered workers receive a lump-sum payment of \$150,000 and medical benefits for the covered illness. Qualified survivors of deceased covered employees may also be eligible for the lump-sum compensation. The EEOICPA also provides compensation in the amount of \$50,000 to individuals (or their eligible survivors) awarded benefits by the Department of Justice (DOJ) under Section 5 of the Radiation Exposure Compensation Act (RECA).

During FY 2003, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) provided over 4,200 employees or their families with compensation payments of approximately \$305 million. In addition, the program paid \$14.4 million for medical expenses associated with treatment of accepted medical conditions.

Funding

The Department of Labor (DOL) spent \$40.1 million for program administration under EEOICPA in FY 2003, which included support for 241 full-time equivalent staff. Additional funding (\$18.0 million) was transferred to support activities of the Department of Health and Human Services, National Institute for Occupational Safety and Health (NIOSH). The DOL costs covered direct expenses by DEEOIC for program administration, including operations and support for the Washington, D.C. National Office; the Final Adjudication Branch (FAB); four district offices; a toll-free call center; completion of the build-out of the IT support system; on-going system operations costs; and contribution to the operation of ten DOL/DOE jointly-run Resource Centers to provide assistance to claimants seeking information or wishing to file a claim under the EEOICPA. The NIOSH portion included funding for the radiation dose reconstruction process and support of the Advisory Board on Radiation and Worker Health..

Administration

Executive Order 13179 designated four Federal agencies to administer the program: DOL, Department of Health and Human Services (HHS), DOE, and DOJ. As the lead agency, DOL has primary responsibility for administering Part B of the EEOIC program and deciding all questions arising under the Act not assigned to other agencies, including adjudicating claims for compensation and paying benefits for those conditions covered under Part B of the Act.

HHS is tasked with establishing procedures for estimating radiation doses and developing guidelines to determine the probability that a cancer was caused by workplace exposure to radiation. These “dose

reconstruction” methods are applied by NIOSH, which is also responsible for producing the radiation dose estimates that DOL uses in adjudicating certain cancer claims under the Act.

NIOSH is charged with the development of guidelines to determine whether a claimant’s cancer meets the criterion for causation by workplace exposure to ionizing radiation (i.e., a 50 percent or greater probability of causation). The basis for this determination is a set of tables (Interactive Radio Epidemiological Program) used to take into account uncertainty concerning the information being used to estimate individualized exposure and to calculate the probability of causation.

HHS also provides the Advisory Board on Radiation and Worker Health with administrative services and other necessary support. The Advisory Board advises HHS on the scientific validity and quality of dose reconstruction efforts and receives and provides recommendations on petitions submitted by classes of employees for inclusion as members of the Special Exposure Cohort (SEC). In addition, HHS is responsible for designating additional classes of employees to be added to the SEC and for selecting physicians for appointment to the DOE physician panels under Part D as needed.

Amendments to the EEOICPA required NIOSH to, with the cooperation of DOE and DOL, conduct a study on the following:

Whether or not significant contamination remained in any atomic weapons employer or beryllium vendor facility after such a facility discontinued activities relating to the production of nuclear weapons.

If so, whether or not such contamination could have caused or substantially contributed to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be.

DOE is responsible for providing DOL and HHS with relevant information on worker exposures, including access to restricted data, and verification of covered employment. In addition, DOE is responsible for establishing a program to assist DOE contractors and subcontractors in state workers’ compensation proceedings for conditions caused by toxic exposure during their employment in the nuclear weapons industry under Part D of the Act.

DOJ notifies beneficiaries who have received an award of benefits under Section 5 of the RECA of their possible EEOICPA entitlement and provides specific information required by DOL to complete the claim development and adjudication process for RECA claimants. There are three categories of claimants under Section 5: uranium miners, uranium millers and ore transporters.

Benefits and Services

The statute, until recently, provided two different, but potentially overlapping benefit programs:

The Part B program for Federal benefits, implemented on July 31, 2001, and administered by DOL with support from DOE and HHS, provides the lump-sum compensation payment of \$150,000 and payment of covered medical expenses to covered workers. Qualified survivors also are entitled to the lump-sum compensation payment.

In addition to supporting DOL's implementation of the Federal benefit program, DOE administered a program - designated as Part D - under which DOE assisted DOE contractor or subcontractor employees (or their survivors) to apply for state workers' compensation benefits if it was determined that the worker sustained an illness as a result of exposure to a toxic or hazardous substance at a DOE facility. DOE provided assistance to and would not oppose the worker's claim for state workers' compensation benefits if an independent Panel of Physicians selected by HHS determined that the illness was related to work at a DOE facility.

There are several different types of claims under Part B of the Act, which require different processing steps. Claims for the \$50,000 RECA supplement are the least complex, involving verification via DOJ that a RECA award has been made, and documentation of the identity of the claimant (including survivor relationship issues). For claims involving beryllium disease, silicosis, or a "specified cancer" for workers at a SEC facility, the employment and illness documentation is evaluated in accordance with the criteria in the EEOICPA.

DEEOIC can move directly to a decision on cases involving a "specified cancer" at a SEC facility because the Act provided a presumption that any of the listed cancers incurred by a SEC worker who meets the duration of employment requirement was caused by radiation exposure. For cases involving a claimed cancer not covered by the SEC provisions (that is, either a cancer incurred at a non-SEC facility or a cancer incurred at a SEC facility that is not one of the specified cancers listed in the Act or was incurred by an employee who does not meet the duration of employment requirement), there is an intervening step in the process to determine causation, called "radiation dose reconstruction." In these instances, once DEEOIC 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 – the total amount and character of radiation to which the individual was exposed related to his or her employment in the nuclear weapons complex – can be estimated. In FY 2003, the DEEOIC district offices referred 6,381 cases to NIOSH for dose reconstruction.

After NIOSH completes the radiation dose reconstruction and calculates their dose estimate for the worker, DEEOIC takes this estimate and applies methodology also developed by NIOSH in its "probability of causation" regulations, to determine if the statutory causality test is met. That is, DEEOIC determines whether the individual's cancer was at least as likely as not (at least 50 percent probability) related to covered employment.

The DEEOIC operates four district offices which adjudicate and process claims and make compensation payments. When a claim is filed, it is assigned to one of the four District Offices located in Jacksonville, Florida; Cleveland, Ohio; Denver,

Colorado; and Seattle, Washington, based on the geographical location of the worker's last covered place of employment. It is assigned to a claims examiner who reviews the documentation and determines if the criteria established by the Act for covered employment and covered illnesses are met. The claims examiner works with the claimant, DOE and/or private employer or employers involved to develop the case file as thoroughly and completely as necessary.

The DEEOIC district office issues a recommended decision (recommending either acceptance or denial of the claim) to the claimant. The claimant may agree with the recommended decision, or may object and request either a review of the written record or an oral hearing (the latter will normally be held at a location near the claimant's residence). In either case, the Final Adjudication Branch (FAB), a separate entity within the DOL's DEEOIC that issues final decisions on behalf of DEEOIC in all claims, reviews the recommended decision and any evidence/testimony submitted by the claimant and issues a final decision, either awarding or denying benefits (or the FAB may remand the decision to the district office should further development of the case be necessary). A final decision may be appealed to the U.S. District Courts. In FY 2003, district offices issued 12,520 claim-level recommended decisions and the FAB issued 14,924 claim-level final decisions. Of that FAB total, 4,650 were approvals and 10,274 were denials.

Services to Claimants

In FY 2003, the DEEOIC continued its relationship with DOE to jointly establish and sponsor a network of Resource Centers at major DOE sites where workers and their families can receive assistance in filing claim forms for both the DOE and DOL programs and also be informed about the Act. Not only do these centers provide valuable information about the claims process to claimants, they also assist the claimant in completing the necessary forms and transmitting documents to the DEEOIC district offices. The Resource Centers can provide assistance either in person or over the telephone, and thus are able to service individuals who are outside the immediate geographical area. All of the Resource Centers have toll-free telephone numbers. In FY 2003, these Resource Centers helped 8,907 claimants file EEOICPA claims.

Additional assistance is provided to claimants and families in locations outside the immediate area of a Resource Center through Traveling Resource Centers (TRCs). A major outreach activity of the EEOIC program is planning and conducting the TRCs as a means of providing claimant assistance in geographical areas of the country where there is no permanent Resource Center, but where covered facilities either presently exist or formerly existed, and a significant number of current or former workers reside. In FY 2003, TRCs conducted six two- or three-day meetings at locations around the country. Prior to each outreach event, various media outlets such as radio and newspaper are utilized to advertise the upcoming traveling resource center. The TRCs helped 1,007 claimants file their claims in FY 2003.

In FY 2003, the DEEOIC website was updated and expanded. This website provides Energy employees, claimants, potential claimants, and other interested parties with up-to-date information on the DEEOIC, including: its mission, the statute and regulations governing the program, policy and procedures, claim reporting forms, Resource Center and district office locations and hours, press releases about the program, medical provider enrollment information, links to the DOE, DOJ, and NIOSH websites, and toll free hot-line numbers where additional information and assistance can be obtained. Weekly content updates to the site were established with the posting of medical and compensation benefit statistics along with data on the status of the program's claims processing activities.

The EEOIC program is committed to conducting significant outreach efforts to find as many potential claimants as possible and inform them of the program. These efforts will continue to include a significant number of strategically located traveling resource centers to provide assistance to potential claimants, as well as coordination with former worker programs, pension funds, unions, and other groups which may be able to extend the message about the program to retirees and workers or their survivors who no longer live in proximity to a DOE facility.

Interagency Cooperation

The administration of EEOICPA is coordinated by each department's program staff. The respective program staffs conduct weekly conference calls to discuss matters of mutual interest and concern. The DOL staff works closely on a daily basis with all of the agencies to refine procedures for handling and processing cases. In addition, DOL staff is in constant communication with DOE regarding employment verification issues, with NIOSH regarding dose reconstruction, probability of

causation calculations and the exchange of information required for dose reconstruction, and with DOJ concerning claims that involve RECA. An interagency group has been established to discuss and resolve issues related to access of records in the possession of the various agencies.

Accomplishments

GOVERNMENT PERFORMANCE AND RESULTS ACT

DOL is committed to measuring the accomplishment of outcomes and being accountable for achieving the fundamental goals of all the programs administered. With respect to the EEOIC program, high performance standards focusing on moving claims rapidly through the initial and secondary adjudication stages were established. The Government Performance and Results Act (GPRA) goals were met in FY 2003, in spite of the challenging first full year's (FY 2002) large number of claims and program start-up activities.

DEEOIC's two indicators achieved under OWCP's goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families" were as follows:

For initial processing, make initial decisions in 75 percent of the cases within 120 days for cases from DOE facilities and in RECA claims, and within 180 days for atomic weapons employer, beryllium vendor, and subcontractor cases (for which employment and other critical information is generally more difficult to obtain). DEEOIC has received over 47,000 Part B claims from program inception through the end of FY 2003, and has made recommended decisions or a referral to NIOSH for dose reconstruction in 95 percent of these claims, and had a working inventory of only 2,277 claims as of September 30, 2003. Through the efforts of the four district office and FAB staff, timely initial decisions in 79 percent of the cases were made, which exceeds the 75 percent goal.

With regard to final decisions, 77 percent of the decisions were within the program standards, also in excess of the goal of 75 percent. Achieving these goals took the persistent, case-by-case effort of the entire staff of DEEOIC, as well as the continuing support of DOL's Solicitor's Office and DOE.

FY 2003 is the second performance tracking year for DEEOIC. Management's constant review and improvement of programmatic processes has enhanced the district offices' ability to process claims more timely, and it is continually monitoring and assessing its processes for issuing final decisions.

PROGRAM OPERATIONS

DOL also has focused on issuing quality decisions and on providing clear and effective communications to the customers and stakeholders. The EEOIC program instituted an intensive Accountability Review process to ensure that samples of case work are scrutinized by objective reviewers, and when issues are identified, immediate corrective action is taken. The national office staff has developed effective and comprehensive procedural and policy guidance, a difficult task considering the DEEOIC is a new and still evolving compensation program. Although no workers' compensation program is without conflict, the level of objections to recommended decisions has been relatively low. During FY 2003, 319 hearings were requested by claimants dissatisfied with the district office's recommended decisions. FAB Hearing Representatives conducted 253 hearings during the same period.

In FY 2004 DOL is prepared to adjudicate the thousands of cases that will be returned by NIOSH with completed radiation dose reconstructions. An operational plan performance goal to issue a recommended decision within an average of 21 days of receiving a dose reconstruction report from NIOSH is in place for DEEOIC district offices. Thus far, the goal is being exceeded. A list of FY 2003 program highlights follows:

A key member of DEEOIC's Branch of Policies, Regulations and Procedures (BPRP) was detailed to DOE for a period of four months resulting in the development of DOE's procedure manual for processing Part D claims.

Procedures were developed for all aspects of claim processing, which are currently available on the DEEOIC website.

The DEEOIC website continued to be updated and expanded. The updates include medical and compensation benefit statistics, upcoming events, bulletins, and press releases.

A Statistics by State feature was added to the DEEOIC website enabling interested parties to determine numbers of cases, claims and benefit payment amounts by state and worksite.

A DEEOIC news feature was added to the main page of the website.

Refined and updated procedures were issued, including 30 bulletins, 3 transmittals, and 1 circular. Streamlining procedures related to employment verification resulted in the issuance of 10 related bulletins.

BPRP developed a new EE-5 form in an effort to clarify DOL requirements for employment verification resulting in significant decreases in the time frames for return of such verifications from DOE.

BPRP implemented new procedures related to subcontractors in an effort to properly track related cases and streamline the process.

BPRP solidified procedures related to certain cancers in joint effort with the National Cancer Institute.

Between October 1, 2002 and September 30, 2003, the DEEOIC responded to 397 congressional inquiries.

DOL outsourced a fully staffed and operational system for processing and paying provider and beneficiary medical bills for entitled beneficiaries.

The DEEOIC created an accountability review process for the FAB, and conducted reviews in the national office FAB and district office FAB locations.

In cooperation with NIOSH, all claims staff was trained on the application and use of Interactive Radio Epidemiological Program (IREP) which is used to calculate probability of causation for employees' cancers, and other NIOSH-related topics.

BPRP created quality control checklists and procedures to be used internally with the district office to ensure the highest quality of output.

The DEEOIC revised and updated procedures related to the use of the Energy Case Management System (ECMS). The database was updated with the ability to better reconcile compensation and

medical payments with the U.S. Department of the Treasury. In addition, automated transaction void and cancellation processes were enhanced.

Requirements were defined for providing expanded medical bill processing support within ECMS. The ECMS will enable staff to: enter medical-related travel authorizations, approve metastatic cancers for payment, authorize special medical services and drugs, and issue prior approvals for payment related to examiner-requested medical review services.

DEEOIC placed great emphasis on training this past year, including providing process-specific training on medical coding, customer service skills, employment verification, (NIOSH/IREP) dose reconstruction, ECMS, and basic and advanced claims examiner training.

A training lead to coalesce the training efforts was hired by DEEOIC. A Bulletin Training plan was developed to ensure that all DEEOIC policy staff is appropriately trained.

DEEOIC's automated query and reporting capabilities evolved into sophisticated and indispensable tools, allowing claims and management personnel to manage and report on program and workload statistics.

DEEOIC's compensation payment system was enhanced to provide management with more sophisticated methods for monitoring payments efficiently and accurately, and to provide more automated and procedural safeguards for system integrity and security.

FAB increased its emphasis and efforts to assist claimants in establishing employment at facilities associated with DOE as part of the adjudication of claims at the final decision level. This required considering the evidence available to claimants in circumstances in which claims rested on determining proof by examining information that had to be measured from records that were over 50 years old or where evidence had to be reconstructed from records coming from various sources.

In adjudicating cases in which claims of stepchildren and natural children could conflict, the FAB provided assistance in defining disparate facts and questions to be considered in examining conflicting rights and claims.

More than 700 FAB decisions were migrated to the Web and linked to the DOL search engine.

Regulatory Activities

During FY 2003, the DEEOIC completed the regulatory development process that began with the May 2001 publication of the Interim Final Regulations governing its administration of the program. This development process included careful evaluation of the 216 comments that the DEEOIC received on the Interim Final regulations, extensive policy discussions on these comments, and development of appropriate additions to, deletions from and alterations to the existing regulatory language for inclusion in the draft final regulations, which were submitted to the Office of Management and Budget for its review prior to the December 2002 publication of the final regulations in the Federal Register. The final regulations governing the administration of the EEOICPA by the DEEOIC went into effect on February 24, 2003, and are codified at 20 CFR part 30.

Energy Employees Occupational Illness Compensation Program Act

	FY 2002	FY 2003
Number of Employees (FTE staffing used)	191	241
Administrative Expenditures*	\$ 35.0 M	\$ 40.1 M
Claims Created	23,674	12,413
Recommended Decisions (Claims)	12,825	12,520
Final Decisions (Claims)	8,358	14,924
Number of Claims Approved (Final)	5,199	4,650
Total Lump Sum Compensation Payments	\$351.0 M	\$305.0 M
Number of Medical Bill Payments	4,104	18,510
Total Medical Payments	\$ 3.8 M	\$ 14.4 M

*Includes Department of Labor expenditures only; excludes funds transferred to the Department of Health and Human Services for that agency's responsibilities under EEOICPA (\$37.5 million in FY 2002 and \$18.0 million in FY 2003, respectively).

Appendix

A. FECA Tables A1–A4	56
B. Black Lung Tables B1–B7	60
C. LHWCA Tables C1–C5	67
D. EEOICPA Tables D1–D5	72
E. OWCP Rehabilitation Table E1	77

Note: Unless otherwise stated, the financial information in the following appendix tables 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 1994—FY 2003
(Cases at End-of-Year)

Roll Type	Fiscal Year									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Total Periodic Roll	60,136	59,605	58,329	55,484	56,159	54,897	54,709	56,133	56,751	58,621
% change v. prior yr.	—	-0.9%	-2.1%	-4.9%	1.2%	-2.2%	-0.3%	2.6%	1.1%	3.3%
Long-Term Disability	50,538	50,685	50,021	49,319	50,105	48,957	48,870	50,409	51,092	53,099
% change v. prior yr.	—	0.3%	-1.3%	-1.4%	1.6%	-2.3%	-0.2%	3.1%	1.4%	3.9%
Death	6,589	6,537	6,353	6,165	6,054	5,940	5,839	5,724	5,659	5,522
Short-term ¹	3,009	2,383	1,955	0	0	0	0	0	0	0

¹ Beginning in FY 1997, short-term periodic roll cases are no longer tracked separately.

Table A—2

Federal Employees' Compensation Program Summary of Claims Activity

FY 1994—FY 2003

Claim Activity	Fiscal Year									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Incoming Cases										
Cases Created	185,927	180,350	175,052	173,319	165,135	166,544	174,471	165,915	158,118	168,174
Traumatic	160,560	154,250	150,204	146,489	138,975	140,383	145,915	137,877	132,250	142,325
No Lost Time	71,999	74,602	75,829	78,642	75,321	83,472	91,620	86,402	80,439	84,368
Lost Time	88,561	79,648	74,375	67,847	63,654	56,911	54,295	51,475	51,811	57,957
Occupational Disease	25,161	25,835	24,689	26,680	25,954	25,999	28,406	27,869	25,739	25,747
Fatal Cases	206	265	159	150	206	162	150	169	129	102
Wage-Loss Claims Initiated	21,402	21,755	20,392	19,181	19,315	19,759	21,899	23,386	23,193	24,245
Hearings and Review¹										
Total Requests for Hearing	6,607	7,357	7,951	7,642	7,496	7,164	6,992	6,875	6,820	6,751
Total Hearing Dispositions	6,571	7,019	7,101	7,525	8,087	7,926	7,418	6,599	6,272	6,743
Pre-Hearing Remands	847	742	970	1,036	1,056	723	678	704	543	605
Dismissals	1,216	1,184	1,375	1,227	1,191	992	944	1,003	980	1,032
Affirmations	2,399	2,686	2,474	2,604	2,965	3,178	2,945	2,266	2,170	2,266
Post-Hearing Remands	807	906	876	958	910	958	1,068	944	848	983
Reviews of the Written Record	583	806	806	1,022	1,179	1,253	1,167	1,118	1,209	1,344
Withdrawals/No-Shows	719	695	600	678	786	822	616	564	522	523

¹ As a result of an internal audit conducted by DFEC, hearings and review data were revised for the years 1994-1996. Management reports were compared with automated system data that began in 1992, and corrections were made to reconcile differences between the two sources.

Table A—3

Federal Employees' Compensation Program Obligations

FY 1994—FY 2003

(\$ thousands)

Type of Obligation	Fiscal Year									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Total Obligations	\$1,922,707	\$1,953,952	\$2,062,325	\$1,968,256	\$2,024,494	\$2,076,475	\$2,170,247	\$2,308,595	\$2,418,364	\$2,475,108
Total Benefits ¹	1,859,349	1,880,754	1,984,209	1,887,363	1,944,259	1,989,050	2,078,715	2,199,276	2,307,942	2,345,472
Compensation Benefits	1,284,380	1,309,562	1,375,808	1,314,603	1,343,879	1,370,206	1,403,154	1,453,740	1,509,275	1,556,845
Medical Benefits	459,312	453,208	481,833	450,206	476,167	492,835	548,596	617,414	667,797	658,121
Survivor Benefits	115,657	117,984	126,568	122,554	124,213	126,009	126,965	128,122	130,870	130,506
Total Administrative Expenditures	63,358	73,198	78,116	80,893	80,235	87,425	91,532	109,319	110,422	129,636
Salaries and Expenses	63,358	67,914	65,145	67,303	69,207	67,567	70,634	78,971	81,210	86,358
Fair Share	0	5,284	12,971	13,590	11,028	19,858	20,898	30,348	29,212	43,278

Table A—4

Federal Employees' Compensation Program Chargeback Costs, by Major Federal Agency

CBY 1994—CBY 2003

(\$ thousands)

Federal Agency	Chargeback Year ¹									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Total Costs	\$1,813,931	\$1,835,129	\$1,840,811	\$1,833,926	\$1,887,980	\$1,908,256	\$2,024,634	\$2,129,097	\$2,219,448	\$2,323,288
U.S. Postal Service	521,456	536,643	547,141	551,142	577,159	594,503	666,310	720,518	785,199	846,876
Department of the Navy	262,274	256,816	256,210	247,488	243,938	240,492	241,585	246,881	248,250	245,461
Department of the Army	168,350	165,461	163,986	159,781	162,152	163,127	166,989	169,219	174,832	181,298
Department of Veterans Affairs	145,471	143,047	140,729	136,607	140,118	137,865	143,221	145,909	151,612	157,315
Department of the Air Force	115,993	119,184	116,141	117,242	124,302	123,349	128,134	134,106	132,538	135,509
Department of Transportation	90,171	89,308	89,407	89,369	95,823	97,155	96,936	99,556	101,716	94,682
Department of Homeland Security	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	83,975
Department of Agriculture	60,085	59,332	58,926	59,230	60,348	59,851	64,882	66,750	69,563	72,312
Department of Justice	51,605	55,757	58,136	63,878	67,875	76,319	83,873	91,197	95,620	66,131
Department of Defense	59,113	62,096	61,069	61,360	62,729	63,563	64,797	64,761	63,888	65,429
All Other Agencies	339,413	347,485	349,066	347,829	353,536	352,033	367,907	390,201	396,230	374,299

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

Table B—1

Part C Black Lung Claims Adjudication at the Initial Level

FY 2003

Type of Claim	PDO's Issued ¹	Approval Rate
Trust Fund	1,521	
Approved	142	9.34%
Denied	1,379	
Responsible Operators	7,095	
Approved	531	7.48%
Denied	6,564	
Total Findings	8,616	
Total Approved	673	7.81%
Total Denied	7,943	

¹ PDO is "Proposed Decision and Order".

Table B—2

Distribution of Part C Black Lung Claims and Disbursements, by State

FY 2003

State	Total Claims Received ¹	MBO Claims ²	In Payment ³	Total Benefits (\$ 000) ⁴
Alabama	32,649	139	1,273	\$9,696
Alaska	149	0	13	99
Arizona	1,991	12	179	1,363
Arkansas	3,788	31	253	1,927
California	6,426	35	368	2,803
Colorado	6,948	38	578	4,404
Connecticut	992	3	96	731
Delaware	766	6	88	670
District of Columbia	285	1	24	183
Florida	11,717	148	1,072	8,166
Georgia	1,591	19	193	1,470
Hawaii	16	0	1	8
Idaho	241	1	21	160
Illinois	30,569	124	1,676	12,767
Indiana	17,556	81	1,006	7,663
Iowa	5,103	21	326	2,483
Kansas	2,162	4	98	746
Kentucky	87,115	1,383	5,509	41,965
Louisiana	339	1	26	198
Maine	44	0	7	53
Maryland	6,596	48	475	3,618
Massachusetts	231	2	25	190
Michigan	10,423	39	596	4,540
Minnesota	143	1	11	84
Mississippi	355	4	36	274
Missouri	4,596	8	287	2,186
Montana	852	3	51	388
Nebraska	128	0	13	99
Nevada	415	2	52	396
New Hampshire	26	0	5	38
New Jersey	4,259	27	382	2,910
New Mexico	2,333	6	147	1,120
New York	3,975	17	296	2,255
North Carolina	3,281	44	379	2,887
North Dakota	157	0	7	53
Ohio	52,812	260	3,705	28,221
Oklahoma	3,754	31	210	1,600
Oregon	624	4	54	411
Pennsylvania	134,850	1,492	13,664	104,079
Rhode Island	40	0	3	23
South Carolina	851	9	129	983
South Dakota	50	0	8	61
Tennessee	20,352	253	1,321	10,062
Texas	1,673	11	153	1,165
Utah	3,999	30	323	2,460
Vermont	47	0	7	53
Virginia	41,347	782	4,008	30,529
Washington	1,580	7	102	777
West Virginia	107,346	1,731	9,084	69,194
Wisconsin	445	2	44	335
Wyoming	2,554	5	213	1,622
All Other	447	3	29	221
Total	620,988	6,868	48,626	\$370,389

¹ All filings since July 1, 1973, including terminated and nonapproved claims.² Active Medical Benefits Only (MBO) claims as of 9/30/03³ Active claims currently in payment status, excluding MBO claims, as of 9/30/03.⁴ 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

Black Lung Claims, by Class of Beneficiary

FY 1994—FY 2003¹

Class of Beneficiary	Number of Beneficiaries ²									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Primary Beneficiaries:										
Miners	37,970	35,220	32,452	29,839	27,340	24,838	22,568	18,248	16,395	14,773
Widows	44,073	43,688	43,155	42,468	41,585	40,517	39,053	35,660	34,236	32,615
Others	1,332	1,362	1,393	1,444	1,476	1,508	1,497	1,467	1,221	1,238
<i>Total Primary Beneficiaries</i>	83,375	80,270	77,000	73,751	70,401	66,863	63,118	55,375	51,852	48,626
Dependents of Primary Beneficiaries:										
Dependents of Miners	32,013	29,377	26,845	24,599	22,158	19,953	17,978	13,924	12,432	11,131
Dependents of Widows	1,668	1,614	1,558	1,491	1,417	1,384	1,306	1,123	1,077	1,052
Dependents of Others	513	508	520	511	512	516	508	108	386	353
<i>Total Dependents</i>	34,194	31,499	28,923	26,601	24,087	21,853	19,792	15,155	13,895	12,536
Total, All Beneficiaries	117,569	111,769	105,923	100,352	94,488	88,716	82,910	70,530	65,747	61,162

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 Black Lung Benefits Program Obligations

FY 1994—FY 2003

(\$ thousands)

Type of Obligation	Fiscal Year									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Total Obligations	\$994,655	\$995,722	\$992,128	\$1,004,672	\$999,822	\$1,005,246	\$1,013,593	\$1,016,994	\$1,034,096	\$1,046,303
Total Benefits ¹	554,349	525,563	499,622	487,910	459,061	439,442	422,656	396,928	384,234	370,389
Income Benefits ²	444,276	423,736	404,623	392,546	376,985	363,871	350,266	336,813	320,039	307,371
Medical Benefits ³	110,073	101,827	95,000	95,363	82,076	75,571	72,390	60,116	64,196	63,018
Administrative Costs ⁴	52,550	51,502	47,314	46,128	46,035	50,788	49,820	52,252	54,273	55,332
Interest Charges ⁵	387,756	418,656	445,192	470,635	494,726	515,016	541,117	567,814	595,589	620,582
Repayable Advances ⁶	413,925	375,100	373,500	375,000	370,000	402,000	490,000	505,000	465,000	525,000
Cumulative Debt⁷	\$4,362,957	\$4,738,057	\$5,111,557	\$5,486,557	\$5,856,557	\$6,258,557	\$6,748,557	\$7,253,557	\$7,718,557	\$8,243,557

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 costs, and reimbursements to the Centers for Medicare & Medicaid Services of the Department of Health and Human Services and the Health and Retirement Funds of the UMWA.⁴ Administrative expenses include reimbursements to SSA.⁵ Starting in 1979, the Trust Fund had to borrow funds from the Treasury Department to pay operating costs not covered by revenues. Interest charges reflect the cost to the Trust Fund for those advances from the Treasury.⁶ Reflects advances from the Treasury Department during the fiscal year.⁷ Shows the cumulative debt of the Trust Fund to the Treasury.

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

Table B—5

Monthly Part C Black Lung Benefit Rates 1973—2003

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

¹These 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 2003
(\$ thousands)

Month	Funding				Disbursements						
	Coal Excise Tax Revenue	Treasury Advances	Reimburse ¹	Total	Income Benefits ²	Medical Benefits Diagnostic	Medical Benefits Treatment ³	Total Benefits	Admin. Costs	Interest on Advances	Total
October 2002	\$7,674	\$0	\$548	\$8,222	\$26,130	\$579	\$5,315	\$32,023	\$2,636	\$0	\$34,659
November 2002	56,370	0	735	57,105	25,732	572	3,934	30,238	3,545	0	33,783
December 2002	60,877	0	265	61,142	25,556	472	4,551	30,579	5,611	0	36,190
January 2003	21,850	0	662	22,512	25,671	544	7,030	33,245	4,019	0	37,264
February 2003	43,979	0	325	44,304	25,909	470	4,458	30,837	2,830	0	33,667
March 2003	42,400	0	601	43,001	25,949	417	5,170	31,536	5,183	0	36,719
April 2003	45,132	0	532	45,664	25,933	441	6,213	32,587	5,396	0	37,983
May 2003	49,790	0	540	50,330	25,566	343	3,990	29,899	5,222	0	35,121
June 2003	4,881	0	765	5,646	25,435	383	5,041	30,859	5,221	0	36,080
July 2003	43,849	0	550	44,399	25,297	341	5,500	31,138	5,225	0	36,363
August 2003	48,933	0	846	49,779	25,020	269	3,090	28,379	5,222	0	33,601
September 2003	80,346	525,000	458	605,804	25,174	250	3,645	29,069	5,223	620,582	654,874
Totals	\$506,801	\$525,000	\$6,827	\$1,037,908	\$307,371	5,081	\$57,937	\$370,389	\$55,332	\$620,582	\$1,046,303

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.

Table B—7

Comparison of Benefit Payments Under the Black Lung Benefits Act (BLBA) With Payments for Permanent Total Disability Under Selected State Workers' Compensation Laws

(As of September 30, 2003)

Benefit Under:	Maximum Monthly Benefit (Miners Only)	Maximum Monthly Benefit (Incl. Dependents)	Minimum Monthly Benefit (Miners Only)
BLBA	\$ 534.60	\$1,069.20	\$ 534.60
Alabama	2,463.77	2,463.77	675.48 ¹
Alaska	3,524.62	3,524.62	476.30 ²
Arizona	1,619.46	1,619.46	N/A
Arkansas	1,905.20	1,905.20	86.60
Colorado	2,797.00	2,797.00	N/A
Illinois	4,321.85	4,321.85	1,620.71
Indiana	2,199.64	2,199.64	216.50 ¹
Iowa	4,775.99	4,775.99	574.33 ¹
Kansas	1,870.56	1,870.56	108.25
Kentucky	2,474.24	2,474.24	494.83
Maryland	3,126.24	3,126.24	216.50 ¹
Missouri	2,811.56	2,811.56	173.20
Montana	2,048.09	2,048.09	N/A
New Mexico	2,338.50	2,338.50	155.88 ¹
North Dakota	2,325.21	2,325.21 ³	1,268.69 ¹
Ohio	2,788.52	2,788.52	1,394.26 ¹
Oklahoma	2,286.24	2,286.24	129.90 ¹
Pennsylvania	2,922.75	2,922.75	1,623.70 ¹
Tennessee	2,593.67	2,593.67	389.05
Texas	2,325.21	2,325.21	350.73
Utah	2,069.74	2,069.74 ³	194.85
Virginia	2,948.73	2,948.73	737.18 ¹
Washington	3,761.38	3,761.38	186.92 ¹
West Virginia	2,281.08	2,281.08	624.38
Wyoming	1,578.80	1,578.80	N/A

¹ Actual wage paid if less than monthly minimum.² Minimum is \$476.30, or \$731.77 if employee shows proof of wages, or worker's spendable weekly wage if less.³ Additional weekly compensation is paid for each dependent, not to exceed the worker's net wage in North Dakota, and 85 percent of the state average weekly wage in Utah.⁴ Minimum compensation benefit ranges from \$185.00 to \$352.00, according to marital status and number of dependents.

N/A=Not Applicable

Table C—1

Total Industry Compensation and Benefit Payments Under LHWCA¹

CY 1993—CY 2002²

(\$ thousands)

Payments By:	Calendar Year									
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Self-Insured Employers	\$265,700	\$273,667	\$257,895	\$272,688	\$263,255	\$261,559	\$283,991	\$278,952	\$307,708	\$310,940
Insurance Carriers	240,449	247,157	238,474	226,592	219,352	238,464	232,778	249,671	236,726	246,603
Total Payments	\$506,149	\$520,824	\$496,369	\$499,280	\$482,607	\$500,023	\$516,769	\$528,623	\$544,434	\$557,543

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

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 note¹, above).

Table C—3

LHWCA and DCCA Special Funds' Expenditures¹

FY 1994—FY 2003

(\$ thousands)

FY	LHWCA Expenditures (\$)					Number of Second Injury Cases	DCCA Expenditures (\$)					Number of Second Injury Cases
	Total	Second Injury Cases ²	Pre Amend. Cases ³	Rehab. ⁴	Other ⁵		Total	Second Injury Cases ²	Pre Amend. Cases ³	Rehab. ⁴	Other ⁵	
1994	\$107,611	\$95,856	\$2,829	\$4,228	\$4,699	4,842	\$11,382	\$10,318	\$872	\$0	\$193	683
1995	116,656	104,317	2,738	4,328	5,272	5,023	11,435	10,284	845	0	305	641
1996	118,260	106,536	2,627	4,110	4,987	5,126	11,868	10,266	819	0	783	659
1997	123,772	111,732	2,570	4,170	5,300	5,209	11,548	10,375	807	1	366	651
1998	129,777	118,496	2,699	3,718	4,864	5,208	12,521	10,810	802	4	904	638
1999	131,152	117,574	2,439	4,888	6,251	5,145	11,879	10,748	747	6	377	617
2000	131,564	119,198	2,459	4,595	5,313	5,025	11,804	10,521	728	0	555	612
2001	133,374	119,952	2,295	5,121	6,006	4,953	11,341	10,368	708	0	265	601
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

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 which, superimposed on a pre-existing injury, results 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 1991 - FY 1993, and FY 1995 - FY 2003. 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' Assessments¹

CY 1994—CY 2003

(\$ thousands)

CY	LHWCA			DCCA		
	Total Industry Assessments ²	Preceding Year Total Industry Payments ³	Assessment Base Year	Total Industry Assessments ²	Preceding Year Total Industry Payments	Assessment Base Year
1994	\$116,000	\$346,490	CY 1993	\$11,500	\$9,970	CY 1993
1995	118,000	360,566	CY 1994	12,000	6,787	CY 1994
1996	113,000	344,103	CY 1995	11,300	6,754	CY 1995
1997	110,000	350,711	CY 1996	11,300	6,361	CY 1996
1998	111,000	334,339	CY 1997	11,000	5,911	CY 1997
1999	130,000	343,146	CY 1998	11,300	6,232	CY 1998
2000	133,000	353,462	CY 1999	12,700	5,179	CY 1999
2001	133,000	361,549	CY 2000	12,000	5,103	CY 2000
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

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 which 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 LHWCA¹

FY 1994—FY 2003

Adjudication Level and Case Status	Fiscal Year									
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
District Offices										
Pending Inventory of Cases	5,720	5,401	6,207	7,759	6,974	9,006	8,675	6,489	7,391	5,495
OALJ										
Carryover from Previous FY	7,197	3,957	4,141 ⁵	4,909	3,849 ¹⁰	3,862	3,668	3,562	3,388	2,980
New Cases	3,878	3,324	4,107	3,520 ⁸	3,579	3,462	3,566	3,500	3,276	3,036
Total Docket	11,075	7,281	8,248	8,429	7,428	7,324	7,234	7,062	6,664	6,016
(Dispositions)	7,118	3,527	3,339	3,557	3,566	3,656	3,672	3,674	3,529	3,499
Pending Inventory	3,957	3,754	4,909	4,872	3,862 ¹¹	3,668	3,562	3,388	2,980 ¹⁴	2,517
BRB										
Carryover from Previous FY	1,781	3,745	1,661 ⁶	399	348	318	326	295	248	208
New Cases	2,772 ²	885	481	457	419	421	423	317	260	332
Total Docket	4,553	4,630	2,142	856	767	739	749	612	508	540
(Dispositions)	800	1,397	1,721 ⁶	539	464	438	467	384	319	282
Pending Inventory	3,745 ³	3,250 ⁴	399 ⁷	348 ⁹	318 ¹²	326 ¹³	295 ¹³	248 ¹³	208 ¹³	267¹³

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 Includes 2,066 appeals filed in the so-called Ingalls Shipbuilding, Inc. cases, and involve various issues arising under section 33 of LHWCA.

³ This figure, as adjusted by BRB, excludes eight cases previously classified as new appeals.

⁴ Data adjustments by the BRB account for the difference between the sum of activity in FY 1995 and that year's pending inventory at year-end.

⁵ The difference between the carryover in FY 1996 and pending inventory at the end of FY 1995 is due to data adjustments made by the OALJ.

⁶ 3,250 total appeals were carried over, but figures were adjusted by BRB to take into account 1,636 separate appeals that were consolidated and disposed of by 5 decisions.

⁷ Number adjusted by BRB to account for misfiled, duplicate, or reinstated appeals.

⁸ Excludes 116 new "33(g)" cases and 1,496 "33(g)" cases remanded from BRB being held in abeyance.

⁹ Number adjusted by BRB to account for misfiled, duplicate, or reinstated appeals.

¹⁰ The difference between the carryover in FY 1998 and pending inventory at the end of FY 1997 is due to data modifications and corrections made by the OALJ.

¹¹ The FY 1998 numbers do not include 2,877 section 33(g) cases that were pending at the beginning of the year, or the 30 dispositions that occurred in such cases.

¹² Data adjustments by the BRB account for the difference between the sum of activity in FY 1998 and that year's pending inventory at year-end.

¹³ Data adjusted by BRB to account for misfiled, duplicate, or reinstated appeals.

¹⁴ Includes dispositions of Boone 33(g) cases.

Table D—1

Status of All EEOICPA Applications at the End of FY 2003¹

Case Status/Claims Activity	Case ²	Claim ³
Total Received-Program Inception Through 9/30/2003	35,924	47,133
Final Decisions Completed by Final Adjudication Branch (FAB) ⁴	18,844	23,416
Final Approved	7,107	10,170
Final Denied	11,737	13,246
Recommended Decisions by District Offices ⁵	1,959	2,181
Recommended Decisions Only, to Approve	184	308
Recommended Decisions Only, to Deny	1,775	1,873
Completed Initial Processing- Referred to NIOSH	13,748	19,259
Pending Initial Processing In District Office ⁶	1,373	2,277

¹ Statistics show the status of all applications filed from program inception through September 30, 2003.

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

Processing Activity During FY 2003 on All EEOICPA Cases/Claims Received Since Program Inception¹

Processing Activity	Case ²	Claim ³
Total Cases/Claims Received-FY 2003	9,301	12,648
Final Decisions by FAB Offices in FY 2003	12,146 ⁴	15,139
Final Approved	3,121	4,765
Final Denied	9,025	10,374
Modification Orders in FY 2003	90	125
Recommended Decisions by District Offices in FY 2003	9,977	12,956
Recommended Decisions Only, to Approve	2,763	4,278
Recommended Decisions Only, to Deny	7,214	8,678
Referrals to NIOSH in FY 2003	6,381	see case statistics
Lump Sum Compensation Payments in FY 2003	see claim statistics	4,006

¹ Activity statistics capture actions made during FY 2003 only, therefore the number of activities reported do not add up to the total number of cases/claims received during FY 2003. (Many activities recorded occurred on cases/claims received prior to FY 2003).

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 2002.

Table D—3

EEOICPA Cases With Approved Decisions and Payments, by Category, Program Inception Through September 30, 2003

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	2,606	36.0%	4,337	\$129,940	19.5%
Special Exposure Cohort Cancer (CN)	2,537	35.0%	3,446	377,056	56.7%
Dose Reconstructed Cancer (CN)	320	4.4%	196	22,020	3.3%
Beryllium Disease (CBD) ⁴	858	11.8%	983	124,875	18.8%
Beryllium Sensitivity-Only (BS)	847	11.7%	N/A	N/A	N/A
Silicosis (CS)	48	0.7%	54	7,200	1.1%
Multiple Conditions ⁵	27	0.4%	27	3,750	1.6%
Total	7,243	100.0%	9,043	\$664,841	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 9/30/2003, but payments were not issued.

² Represents total lump sum compensation payments from EEOIC program inception to September 30, 2003.

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.

Table D—4

EEOICPA Cases With Final Decision To Deny, Program Inception Through September 30, 2003

Reason for Denial	Number of Cases
Employee Did Not Work at a Covered DOE Facility, Atomic Weapons Employer, or Beryllium Vendor During a Covered Time Period	1,900
Alleged Survivor Not an Eligible Beneficiary	235
Claimed Condition Not Covered Under Part B of EEOICPA	7,957
Dose Reconstruction Reveals the Probability That the Cancer is Related to Employment is Less Than 50 Percent	183
Medical Evidence is Insufficient to Establish Entitlement	1,500
Total	11,775¹

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

Most Prevalent Non-Covered Medical Conditions, EEOIC Program Inception Through September 30, 2003

Non-Covered Medical Condition	Percentage of All Denials For This Condition ¹
Other Lung Conditions	25%
Heart Condition/Failure/Attack/Hypertension	8
Renal Condition or Disorder (Kidney Failure, Kidney Stone)	6
Chronic Obstructive Pulmonary Disease & Emphysema	6
Asbestosis	5
Hearing Loss	4
Benign Tumors, Polyps, Skin Spots	2
Neurological Disorder	2
Diabetes	2
Thyroid Conditions (e.g., Hypothyroidism)	1
Anemia	1
Back or Neck Problems	1
Parkinson's Disease	1
Psychological Conditions	1
All Other Non-Covered Conditions (Each Less Than 1%)	26
No Condition Reported on Claim Form	10

¹ Based on 7,957 cases that were denied because claimed condition was not covered under Part B of EEOICPA.

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

Table E—1

OWCP Reemployment and Rehabilitation

FY 1994—FY 2003

(Cost in \$ thousands)

FY	FECA Nurse			FECA Rehabilitation			Longshore Rehabilitation		
	Cases ¹	Reemployments	Cost	Cases ¹	Rehabilitations	Cost	Cases ¹	Rehabilitations	Cost
1994	5,530	1,541	\$5,680	7,778	1,018	\$13,500	2,028	352	\$4,228
1995	10,574	3,275	10,136	6,465	893	13,163	1,815	408	4,328
1996	14,235	4,623	13,041	6,049	842	12,672	1,535	357	4,110
1997	15,515	5,735	14,484	5,628	888	11,827	1,606	309	4,171
1998	15,261	5,884	14,575	5,812	819	11,399	1,444	298	3,722
1999	16,304	6,449	14,783	5,441	907	11,814	1,464	273	4,895
2000	18,293	6,885	18,085 ²	4,835	747	10,119	1,469	245	4,595
2001	18,825	7,439	20,413	4,633	736	9,568	1,446	265	5,121
2002	17,186	8,088	21,769	4,431	708	7,860	1,384	256	4,801
2003	20,000	8,337	20,418	4,965	912	8,342	1,303	220	4,628

¹ Number of Federal and longshore cases that received counseling, placement assistance, and training services during the Fiscal Year.

² FY 2000 revised to include continuation-of-pay, costs of which are also included in all later years.

Office Directory

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

200 Constitution Avenue, NW., Washington, D.C. 20210
202-693-0031

www.dol.gov/esa/owcp_org.htm

Director,
Office of Workers' Compensation Programs
Shelby Hallmark

Deputy Director,
Office of Workers' Compensation Programs
Nancy M. Flynn

Director,
Division of Planning, Policy and Standards
Cecily Rayburn

Division of Federal Employees' Compensation
(www.dol.gov/esa/regs/compliance/owcp/fecacont.htm)
Douglas C. Fitzgerald, Director
Edward Duncan, Deputy Director

Division of Coal Mine Workers' Compensation
(www.dol.gov/esa/regs/compliance/owcp/bltable.htm)
James L. DeMarce, Director

Division of Longshore and Harbor Workers' Compensation
(www.dol.gov/esa/owcp/dlhwc/lstable.htm)
Michael Niss, Director

Division of Energy Employees Occupational Illness Compensation
(www.dol.gov/esa/regs/compliance/owcp/eeoicp/main.htm)
Peter M. Turcic, Director
Roberta Mosier, Deputy Director
LuAnn Kressley, Chief, Final Adjudication Branch

Region I/II—Northeast

(Connecticut, Maine, Massachusetts,
New Hampshire, New Jersey, New York, Puerto Rico,
Rhode Island, Vermont, Virgin Islands)

Regional Office (New York)
Jaye Weisman, Regional Director
U.S. Department of Labor, ESA/OWCP
201 Varick Street, Room 750
New York, NY 10014
646-264-3100

New York FECA District Office
Zev Sapir, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
201 Varick Street, Room 740
New York, NY 10014-0566
646-264-3000

New York Longshore District Office
Richard V. Robilotti, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
201 Varick Street, Room 740
Post Office Box 249
New York, NY 10014-0249
646-264-3010

EEOICPA Resource Center (New York Site)
David San Lorenzo, Office Manager
6000 North Bailey Avenue, Suite 2A, Box #2
Amherst, NY 14226
716-832-6200 (Toll-Free 1-800-941-3943)
newyork.center@rrohio.com

Boston FECA District Office
Carol Adams, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
JFK Federal Building, Room E-260
Boston, MA 02203
617-624-6600

Boston Longshore District Office
David Groeneveld, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
JFK Federal Building, Room E-260
Boston, MA 02203
617-624-6750

Region III—Philadelphia

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

Regional Office
R. David Lotz, Regional Director
U.S. Department of Labor, ESA/OWCP
Curtis Center, Suite 780 West
170 S. Independence Mall West
Philadelphia, PA 19106-3313
215-861-5402

Philadelphia FECA District Office
William J. Staarman, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
Curtis Center, Suite 715 East
170 S. Independence Mall West
Philadelphia, PA 19106-3308
215-861-5481

Baltimore Longshore District Office
Emma Riley, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
The Federal Building, Room 410-B
31 Hopkins Plaza
Baltimore, MD 21201
410-962-3677

Norfolk Longshore District Office
Basil Voultssides, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
Federal Building, Room 212
200 Granby Mall
Norfolk, VA 23510
757-441-3071

Johnstown Black Lung District Office
Stuart Glassman, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
Penn Traffic Building
319 Washington Street
Johnstown, PA 15901
814-533-4323, Ext 401 (Toll-Free 1-800-347-3754)

Wilkes-Barre Black Lung District Office

Maribeth Girton, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
100 N. Wilkes-Barre Blvd., Room 300 A
Wilkes-Barre, PA 18702
570-826-6457 (Toll-Free 1-800-347-3755)

Charleston Black Lung District Office

Richard Hanna, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
Charleston Federal Center, Suite 110
500 Quarrier Street
Charleston, WV 25301
304-347-7100 (Toll-Free 1-800-347-3749)

Greensburg Black Lung District Office

Colleen Smalley, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
Wellington Square, Suite 405
1225 South Main Street
Greensburg, PA 15601
724-836-7230 (Toll-Free 1-800-347-3753)

Parkersburg Black Lung Sub-District Office

Loretta Bird, Supervisory Claims Examiner
U.S. Department of Labor, ESA/OWCP/DCMWC
Federal Building, Suite 3116
425 Juliana Street
Parkersburg, WV 26101
304-420-6385 (Toll-Free 1-800-347-3751)

DCMWC Field Stations

U.S. Department of Labor
ESA/OWCP/DCMWC
Mine Safety & Health Academy, Rm. G-100
Airport Road
Beckley, WV 25802
304-255-6195

U.S. Department of Labor
ESA/OWCP/DCMWC
601 Federal Street
Bluefield, WV 24701
304-325-2164

U.S. Department of Labor
ESA/OWCP/DCMWC
Randolph Co. Senior Citizens' Center
Fifth and Railroad Avenue
Elkins, WV 26241
304-636-4747

U.S. Department of Labor
ESA/OWCP/DCMWC
513 Dingess Street
P.O. Office Box 1979
Logan, WV 25601
304-752-9514

U.S. Department of Labor
ESA/OWCP/DCMWC
Post Office Box 790
Uneeda, WV 25205
304-369-6050

U.S. Department of Labor
ESA/OWCP/DCMWC
Coal Mine Safety & Health District 3
5012 Mountaineer Mall
Morgantown, WV 26505
304-291-4277

Region IV—Southeast

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

Regional Office

Richard A. Brettell, Regional Director
U.S. Department of Labor, ESA/OWCP
214 North Hogan Street, Room 1026
Jacksonville, FL 32202
904-357-4725

Jacksonville FECA District Office

Magdalena Fernandez, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
400 West Bay Street, Room 826
Jacksonville, FL 32202
904-357-4777

Jacksonville Longshore District Office

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

Jacksonville Energy District Office

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

EEOICPA Resource Center (Paducah Site)

Katherine Fuller, Office Manager
Barkely Center, Unit 125
125 Memorial Drive
Paducah, KY 42001
270-534-0599 (Toll-Free 1-866-534-0599)
paducah.center@rrohio.com

EEOICPA Resource Center (Savannah River Site)

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

EEOICPA Resource Center (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.com

Pikeville Black Lung District Office

Harry Skidmore, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
164 Main Street, Suite 508
Pikeville, KY 41501
606-432-0116 (Toll-Free 1-800-366-4599)

Mt. Sterling Black Lung Sub-District Office

Brenda K. Jamison, Assistant District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
402 Campbell Way
Mt. Sterling, KY 40353
859-498-9700 (Toll-Free 1-800-366-4628)

Region V/VII—Midwest

(Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin)

Regional Office (Chicago)

Nancy Jenson, Regional Director
U.S. Department of Labor, ESA/OWCP
230 South Dearborn Street, Room 800
Chicago, IL 60604
312-596-7131

Chicago FECA District Office

Joan Rosel, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
230 South Dearborn Street, Room 800
Chicago, IL 60604
312-596-7157

Cleveland FECA District Office

Robert M. Sullivan, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
1240 East Ninth Street, Room 851
Cleveland, OH 44199
216-357-5100

Cleveland Energy District Office

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

EEOICPA Resource Center (Portsmouth Site)

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

Columbus Black Lung District Office

Don Dopps, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
1160 Dublin Road, Suite 300
Columbus, OH 43215
614-469-5227 (Toll-Free 1-800-347-3771)

Kansas City FECA District Office

Lois Maxwell, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
City Center Square
1100 Main Street, Suite 750
Kansas City, MO 64105
816-502-0301

Region VI/VIII—Southwest

(Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming)

Regional Office

E. Martin Walker, Regional Director
U.S. Department of Labor, ESA/OWCP
525 South Griffin Street, Room 407
Dallas, TX 75202
972-850-2409

Dallas FECA District Office

Frances Memmolo, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
525 South Griffin Street, Room 100
Dallas, TX 75202
972-850-2300

Houston Longshore District Office

Chris Gleasman, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
8866 Gulf Freeway, Suite 140
Houston, TX 77017
713-943-1605

New Orleans Longshore District Office

David Duhon, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
4436 Veterans Blvd., Suite 17
Metairie, LA 70006
504-457-6310

Denver FECA District Office

Shirley Bridge, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
1999 Broadway, Suite 600
Denver, CO 80202
720-264-3000

Denver Black Lung District Office

Debra Thurston, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
1999 Broadway, Suite 690
P.O. Box 46550
Denver, CO 80202-6550
720-264-3100 (Toll-Free 1-800-366-4612)

Denver Energy District Office

Kevin Peterson, District Director
U.S. Department of Labor, ESA/OWCP/DEEOIC
1999 Broadway, Suite 1120
P.O. Box 46550
Denver, CO 80201-6550
720-264-3060 (Toll-Free 1-888-805-3389)

EEOICPA Resource Center (Rocky Flats Site)

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

EEOICPA Resource Center (Española Site)

Karen Martinez, Office Manager
412 Paseo De Oñate, Suite D
Española, 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, ESA/OWCP
71 Stevenson Street, Room 1705
San Francisco, CA 94105
415-848-6880

San Francisco FECA District Office

Andy Tharp, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
71 Stevenson Street, Room 305
San Francisco, CA 94105
415-848-6700

San Francisco Longshore District Office

R. Todd Bruininks, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
71 Stevenson Street, Room 1705
Post Office Box 193770
San Francisco, CA 94119-3770
415-848-6675

Long Beach Longshore District Office

Eric Richardson, District Director
U.S. Department of Labor, ESA/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, ESA/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, ESA/OWCP/DFEC
1111 Third Avenue, Suite 650
Seattle, WA 98101-3212
206-398-8100

Seattle Longshore District Office

Karen Staats, District Director
U.S. Department of Labor, ESA/OWCP/DLHWC
1111 Third Avenue, Suite 620
Seattle, WA 98101-3212
206-398-8255

Seattle Energy District Office

Christy Long, District Director
U.S. Department of Labor, ESA/OWCP/DEEOIC
719 2nd Avenue, Suite 601
Seattle, WA 98104
206-373-6750 (Toll-Free 1-888-805-3401)

EEOICPA Resource Center (Idaho Falls Site)

Bertha Jones, Office Manager
1820 East 17th Street, Suite 375
Exchange Plaza
Idaho Falls, ID 83404
208-523-0158 (Toll-Free 1-800-861-8608)
idaho.center@rroho.com

EEOICPA Resource Center (Las Vegas Site)

John 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@rroho.com

EEOICPA Resource Center (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@rroho.com

EEOICPA Resource Center (California Site)

Ernest Rios, Office Manager
2600 Kitty Hawk Road, Suite 101
Livermore, CA 94551
925-606-6302 (Toll-Free 1-866-606-6302)
california.center@rroho.com

National Operations Office

(District of Columbia, Maryland, Virginia, overseas cases)

Linda DeCarlo, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
National Operations Office
800 N. Capitol St., NW.
Room 800
Washington, DC 20211
202-513-6800