

OWCP
Annual Report to Congress FY 2006



Submitted to Congress 2009
U.S. Department of Labor
Employment Standards Administration

Office of Workers' Compensation Programs



2006

OWCP Annual Report to Congress FY 2006



Submitted to Congress 2009

U.S. Department of Labor

Employment Standards Administration, Shelby Hallmark, Acting Assistant Secretary

Office of Workers' Compensation Programs, Shelby Hallmark, Director

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U.S. Department of Labor

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Washington, D.C. 20210

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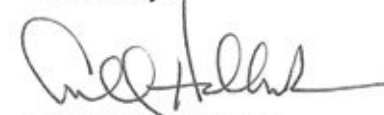
THE HONORABLE PRESIDENT OF THE SENATE
THE HONORABLE SPEAKER OF THE HOUSE OF REPRESENTATIVES

I have enclosed the Department of Labor's annual report to Congress on the FY 2006 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, 2005, through September 30, 2006.

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,



Shelby Hallmark
Acting Assistant Secretary

Enclosures

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Assistant Secretary's Message

I am pleased to submit the Office of Workers' Compensation Programs' (OWCP) Annual Report for Fiscal Year (FY) 2006 to Congress.

In FY 2006, OWCP successfully achieved all ten of its Government Performance Results Act standards covering each of the four programs under its administration. In its third year of operation, the President's Safety, Health, and Return-to-Employment (SHARE) initiative continued to drive improvements in performance against its important goals: increasing the timely filing of injury notices and reducing injuries and lost production days for Federal agencies. A large majority of the agencies met or exceeded the FY 2006 goals, as did the government as a whole. President Bush extended SHARE for an additional three years to use this momentum to achieve even greater improvements in the safety and health of the Federal sector. OWCP continued to provide critical and highly sensitive claims management, compliance and outreach services in response to the high volume of new claims from employees of contracting agencies covered under the Defense Base Act for injuries incurred while working in the Middle East. During the first year of full performance of Part E of the Energy Employees Occupational Illness Compensation Program Act, OWCP staff substantially reduced the backlog of more than 25,000 cases inherited from the Department of Energy.

Shelby Hallmark
Acting Assistant Secretary for Employment Standards

Director's Message

Fiscal Year (FY) 2006 was a successful year for the Office of Workers' Compensation Programs (OWCP). Each of the four programs that make up OWCP performed effectively, meeting or exceeding all ten of the indicators under the Department of Labor's Government Performance Results Act (GPRA) goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families."

The Federal Employees' Compensation (FEC) program not only met each of its five GPRA goals, but also completed a very successful third year of the President's Safety, Health and Return-to-Employment (SHARE) initiative. Under FEC leadership, the government as a whole (less the Postal Service, which is not covered by the SHARE initiative), exceeded the goal for the timely filing of injuries by more than 20 percent and achieved the lost production day reduction goal for the first time. The reduction in new injuries under SHARE resulted in less than 140,000 new Federal Employee Compensation Act claims during the year, the lowest since 1974. After a challenging year of transition, the FEC program restored operational stability and expanded the capabilities of its new claims adjudication and management system.

The Longshore and Black Lung programs successfully achieved each of their GPRA indicators while at the same time extending meaningful compliance assistance to the affected public. Both programs improved their performance against key GPRA goals to speed the resolution or avoidance of claims disputes. The Longshore program continued to do an excellent job of managing the Defense Base Act (DBA) caseload generated by extensive U.S. contract services in Iraq and Afghanistan. With total new DBA covered injury and death claims reaching 5,075 during the year (3,999 in

Iraq and Afghanistan alone), Longshore staff did an outstanding job of not only assisting in the processing of this large case workload, but providing the very important compliance assistance and other outreach services needed to properly take care of these sensitive claims.

OWCP completed its fifth full year of administering Part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), and the first full year of the new Part E program. Between the two parts of EEOICPA, more than 21,000 employees or their families received benefits totaling over \$2.1 billion by the end of FY 2006. Payments under the older Part B program reached a new one-year high during FY 2006 of more than half a billion dollars, even while the new Part E program was being ramped up. The EEOICPA program met all three of its GPRA processing timeliness indicators, and, most notably, the goal of reaching an initial determination in at least 75 percent of the 25,000 Part E cases inherited from the Department of Energy (DOE) was exceeded. Most of these cases had been filed with DOE more than four years before they were transferred to DOL, and these workers and their families clearly deserved to have their cases processed as quickly as possible.

The concrete outcomes accomplished in all four OWCP programs flow from the effectiveness of our staff. In achieving our challenging GPRA performance goals, while delivering quality service to customers and stakeholders, OWCP staff again demonstrated their dedication to carrying out the important missions for which we are responsible.

Shelby Hallmark
Director, Office of Workers' Compensation Programs



Federal Employees' Compensation Act

Introduction

In 1916, President Wilson signed the first comprehensive law protecting Federal workers from the effects of work injuries. Amended several times, the Federal Employees' Compensation Act (FECA) now provides workers' compensation coverage to approximately 2.7 million Federal workers. The FECA also provides coverage to Peace Corps and VISTA volunteers, Federal petit and grand jurors, volunteer members of the Civil Air Patrol, Reserve Officer Training Corps Cadets, Job Corps, Youth



Conservation Corps enrollees, and non-Federal law enforcement officers when injured under certain circumstances involving crimes against the United States.

For 90 years, the Federal Employees' Compensation (FEC) program has continuously evolved to meet its commitment to high quality service to employees and Federal agencies, while minimizing the human, social and financial costs of work-related injuries.

Benefits and Services

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

In Fiscal Year (FY) 2006, the FEC program provided 264,000 workers and survivors

approximately \$2.4 billion in benefits for work-related injuries, illnesses or deaths. Of these benefit payments, over \$1.6 billion were for wage-loss compensation, \$668 million for medical and rehabilitation services, and \$129 million for death benefit payments to surviving dependents.

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

Funding

Benefits are paid from the Employees' Compensation Fund. Agencies are billed each August for benefits paid for their employees from the Fund, and most agencies, other than the U.S. Postal Service (USPS) and non-appropriated fund agencies, include those chargeback costs in their next annual appropriation request to Congress. Remittances to the Fund are not made until the first month of the subsequent fiscal year (or later, if an agency's full-year appropriation is enacted after the subsequent fiscal year begins). The annual DOL appropriation makes up any difference between prior year remittances and current year need, which is affected by Federal wage increases and inflation in medical costs.



Benefit Outlays Under FECA FY 2006

TOTAL BENEFITS*: \$2,419 MILLION		
Long Term Disability (Wage Loss)	53.9%	\$1,304 Million
Medical Benefits	27.6%	\$ 668 Million
Temporary Disability (Wage Loss)	13.2%	\$ 318 Million
Death Benefits	5.3%	\$ 129 Million

*Actual Obligations

investments for the development and operation of automated data management and operations support systems, periodic roll case management, and benefit oversight. Another \$13.2 million are separately appropriated to the Department for legal, investigative, and other support from the ECAB, Office of the Solicitor, the Office of the Inspector General, and the U.S. Treasury.

Expenses for a small number of cases are not charged back to employing agencies, but also are covered by the DOL appropriation. For FY 2006, these non-chargeback expenses were approximately \$28 million. Non-chargeable costs are attributable to injuries that occurred before December 1, 1960, when the chargeback system was enacted, to employees of agencies that are no longer in existence, or to injuries which have FECA coverage under various "Fringe Acts" such as the Contract Marine Observers Act, Law Enforcement Officers Act, and the War Hazards Compensation Act, that did not contain mechanisms for billing employers.

For FY 2006, administrative expenditures for the FEC program totaled \$148.3 million. Of this amount, \$135.1 million, approximately 5.3 percent of total program costs, were direct appropriations to the DOL's Office of Workers' Compensation Programs (OWCP), including \$88.4 million in salaries and expenses and \$46.7 million in "fair share" expenditures out of the FECA Special Benefits account. These latter funds are specifically earmarked for OWCP capital

Government Performance Results Act

In FY 2006, the Division of Federal Employees' Compensation (DFEC) achieved each of the five indicators under DOL's Government Performance Results Act (GPRA) goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families."

As a result: DFEC met its Lost Production Days rate (LPD per 100 employees) targets. LPD for U.S. Postal Service cases was 139.9 days, exceeding its FY 2006 target of 146 days; and LPD for all other government cases was reduced from 56.1 days to 52.2 days, exceeding the 60 day target.

Through use of Periodic Roll Management, DFEC produced \$16 million in first-year savings, exceeding its target of \$13 million.

The program achieved a rate of increase of 6.3 percent in per-case medical costs in FECA compared to an increase of 8.6 percent for nationwide health care costs.

Targets were met by DFEC in four key communication performance areas: call handling quality; average caller times; calls responded to on same day; and access to electronic information.

Safety, Health, and Return-to-Employment Initiative

In 2004, President George W. Bush launched the Safety, Health and Return-to-Employment (SHARE) Initiative for Federal Executive Branch agencies. SHARE was established to run for fiscal years 2004 through 2006, with the Department of Labor leading the Initiative. Secretary of Labor Elaine L. Chao assigned the Occupational Safety and Health Administration and the OWCP with responsibility for administering and monitoring program efforts.

OWCP has completed the third year of data collection and performance tracking under the SHARE Initiative. OWCP continued to collaborate with agencies in achieving two of the Initiative's goals: to increase the timely filing of injury notices by at least five percent per year; and to reduce lost production days due to workplace injuries and illnesses by at least one percent per year. Agencies were encouraged to challenge themselves by setting more ambitious annual targets and many did, particularly in the area of timely claim submissions.

A major accomplishment in the third year of SHARE was the continued improvement in the timely filing of injury notices. 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 claim forms. By filing 71.1 percent of their cases with OWCP within 14 days, non-Postal agencies exceeded the FY 2006 goal by more than 20 percent. Fifteen of 18 departments met or exceeded the timely filing goal, with 17 of 18 departments increasing their timeliness over the baseline in the third year of the Initiative.

With non-Postal agencies averaging 52.2 lost days per 100 employees versus a goal of 54.3 lost days, the SHARE goal for lost production days (LPD) was met for the first time in FY 2006. Performance in this area demonstrated a marked improvement over FY 2005's rate of 56.1 days. Eleven of the 18 departments and the majority of the independent agencies met or exceeded the FY 2006 goal. The achievement of this difficult goal in FY 2006 demonstrates that agencies are focusing on the long-term changes needed to improve their disability case management programs.

To reaffirm the Administration's commitment to improving safety and health in the Federal sector, President Bush extended the SHARE initiative for three years on September 29, 2006. This was a very important step, since OWCP cannot meet its GPRA goals for the FEC program without the continuing improved performance of its partners in the employing agencies. The goals and goal-setting methodology for SHARE II remain essentially the same; FY 2003 agency performance data will remain the baseline

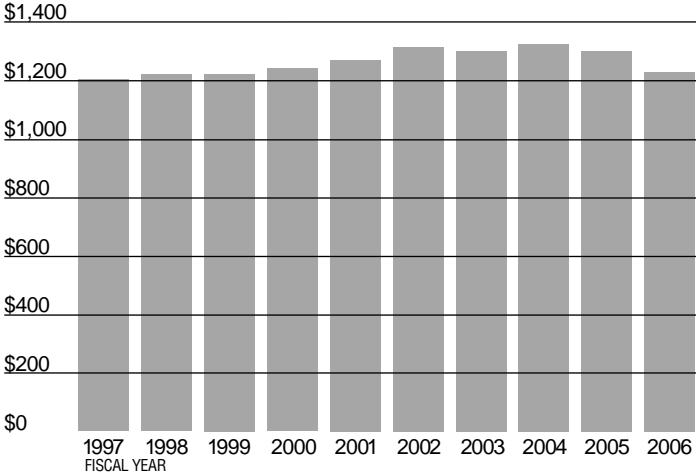
for the first three goals of the initiative. However, all agencies will be required to achieve at least a 50 percent timely filing rate under Goal 3. Those agencies for which a five percent per year improvement from their FY 2003 baseline results in a FY 2007 goal higher than 50 percent, will have their performance tracked against that formula-driven target, except that no agency's goal will be required to exceed 95 percent. In FY 2008 and FY 2009, the minimum thresholds will rise to 55 percent and 60 percent, respectively. The Goal 4 target also has been slightly modified. LPD figures were revised due to a data system change which yields a more accurate compilation of lost days. FY 2006 outcomes were recalculated using the new computation methodology and will be used as the new baseline for LPDs. Agencies with FY 2006 baseline LPDs at or below 15 days will be charged with maintaining an LPD rate of 15 or less. All other agencies will have their progress measured against the formula-driven targets of reducing LPDs by one percent per year.

iFECS-Based Case Adjudication and Management

FY 2006 was a productive year for the FEC program as it returned to operational stability with the expanded capabilities afforded by the successful deployment of its new claims adjudication and management system, the integrated Federal Employees' Compensation System (iFECS). Enhancements and application adjustments to the new system continued, helping claims examiners become more effective and efficient in case adjudication and management of claims.

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.

Approximately 140,000 new injury and illness claims were filed under FECA in FY 2006. Eighty-five percent were for traumatic injuries, such as those caused by slips and falls. The rest were for medical conditions arising out of long-term exposure, repeated stress or strain, or other continuing conditions of the work environment. For traumatic injury claims, 93.8 percent were adjudicated within 45 days of the day OWCP received notice of the injury. In FY 2006, the FEC program also achieved a high rate of timeliness in deciding non-traumatic injury claims despite the complexities involved. For "basic" occupational disease cases with an uncomplicated fact pattern, 86.7 percent were adjudicated within 90 days. Seventy-four percent of the more complex non-traumatic cases were adjudicated within 180 days.

While early intervention is crucial, the FEC program continued to dedicate resources to the thorough review of long-term disability cases. The Periodic Roll Management (PRM) staff arranges second opinion medical examinations, vocational rehabilitation, and placement assistance, with a goal of reemploying injured workers. PRM has proven to be extremely successful, with outcomes exceeding OWCP's target estimate of \$13 million. In FY 2006, staff achieved compensation savings of \$16.1 million. Of the cases that were screened, benefits were adjusted or terminated in nearly 1,500 cases where beneficiaries' disabilities had either resolved or lessened to the point that return to work was possible. Savings from these actions will continue in subsequent years.

Central Medical Bill Processing

OWCP's medical bill processing service continued to achieve improvements in operating efficiencies. During FY 2006, DFEC realized an additional \$50.9 million reduction in costs due to further system improvements in editing bills, which in turn reduced costs charged back to agencies.

Timely and accurate medical bill processing is a critical element in administration of the FECA. In FY 2006, pharmacy bill processing was enhanced to ensure that the therapeutic class of drugs and medications is related or relevant to claimants' accepted conditions for compensation and benefits.

In FY 2006, the vendor processed 4,844,286 bills and handled 835,741 telephone calls. Authorizations for treatment were processed in an average of 2.3 work days and 99 percent of bills were processed in 28 days. Enrollment of 7,270 new providers brought the total of enrolled providers to 271,126.

Hearings and Review

If an individual disagrees with the claims examiner's formal decision on a claim, he or she may request from the Branch of Hearings and Review that an oral hearing or a written review of the record take place. In FY 2006, the Branch received a total of 6,241 incoming requests for reviews of the written record and oral hearings, and issued a total of 7,424 decisions.

In FY 2006, customer service and turnaround times improved in all measured areas. The period of time between receipt of a case file and the issuance of a remand or reversal before a hearing decreased by an average of 27 percent, from 128 days in FY 2005 to 94 days in FY 2006. For those case files where a hearing was held, the time period for issuance of a decision decreased by 12 percent, from an average of 273 days in FY 2005 to 239 days in FY 2006. For decisions emanating from a review of the written record, the Branch improved by an average of 22 percent, from 127 days in FY 2005 to 99 days in FY 2006.



FECA Benefits Charged To Employing Agencies

CHARGEBACK YEAR 2006

Chargeback Total: \$2,441 Million

Postal Service	\$ 884 Million
Defense	\$ 617 Million*
Veterans Affairs	\$ 164 Million
Homeland Security	\$ 157 Million
Transportation	\$ 93 Million
Justice	\$ 89 Million
Agriculture	\$ 70 Million
All Other	\$ 367 Million

*Defense includes Navy (\$244M), Army (\$180M), Air Force (\$127M), and Department of Defense (\$65M).

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

Performance Assessment

Under the Program Assessment Rating Tool (PART) process in 2002, DFEC was rated "Moderately Effective." Key recommendations of the PART review included pursuing actions to improve the performance of the program. In FY 2006, these actions included:

Working with Congress to update the benefit structure and convert benefits for retirement-age individuals to a typical retirement benefit.

Implementing recommendations made in a 2004 evaluation of the program's design, strategic goals, and strategies conducted under contract with ICF Consulting, in particular pursuit of expansion of disability management to improve return-to-work outcomes of new injury cases during the continuation-of-pay period.

Tracking and improving customer satisfaction.

Legislative Reform

Work continued with the Congressional committees to find sponsors and to work out timing for the proposed reform of the FECA which is included in the President's FY 2007 Budget. The goals of the reform are to enhance incentives for injured employees to return to work; address retirement equity issues; and update and make other benefit changes. Specifically, the reform proposes to:

Convert compensation for new injuries or new claims for disability to a lower benefit at the Social Security retirement age.

Move the 3-day waiting period during which an injured worker is not entitled to compensation to the point immediately after an injury.

Change the way that schedule awards are paid to allow uniform lump sum payments to federal employees eligible for such awards.

Eliminate augmented compensation for dependents but raise the basic benefit level for all claimants.

Allow OWCP to recover the costs, estimated at over \$2 million annually, paid by responsible third parties to FECA beneficiaries during the continuation of pay period.

Increase benefit levels for funeral expenses from \$1,000 to \$5,000.

Increase benefit levels for disfigurement resulting from work injury.

Estimated savings to the government over ten years through the enactment of these proposals would be \$592 million.

FECA Performance Study

An independent study of DFEC program performance and effectiveness in 2004 produced key recommendations to improve the DFEC early case intervention program. In particular, DFEC was advised to strengthen disability case management during the continuation-of-pay period immediately following an injury while the cases remain in the primary jurisdiction of their Federal employing agencies. To pursue that recommendation, DFEC enlisted the services of another contractor in FY 2006 to assess its current COP Nurse Program, identify best practices used by state and private sector organizations in early case management, and identify strategies for

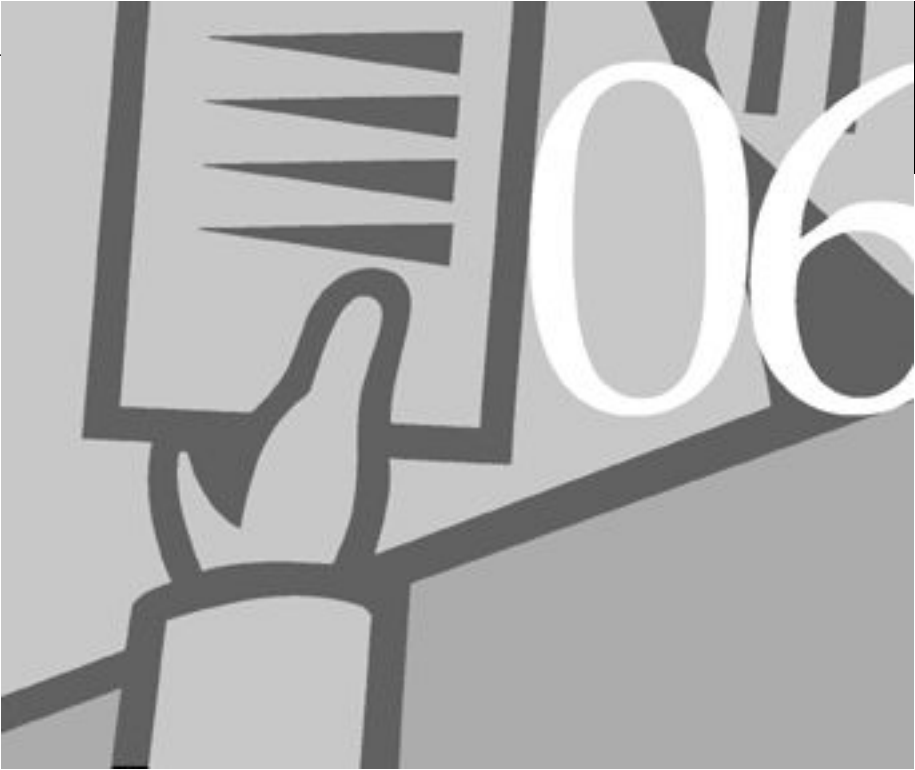
improving the effectiveness of DFEC technical assistance and training programs in working with Federal agencies.

DFEC seeks to help agencies: adopt effective practices to create re-employment opportunities, facilitate job retention, and create opportunities for advancement; better process new injury claims and manage injury caseloads; and better consider disability management costs and benefits in their human resource and personnel policies and operations. Best practices, new approaches, and efficiency recommendations resulting from the performance study also will directly support the objectives of the SHARE initiative to reduce Federal injury rates, speed submission of claims, and reduce lost production days.

Services to Claimants and Beneficiaries

Quality customer service and customer satisfaction are key components of DFEC's mission and "Pledge to Our Customers." Of the more than 1.5 million calls to the DFEC district offices, 33.6 percent were handled by Customer Service Representatives (CSRs) in the 12 district office call centers. Calls were answered in an average of 2.34 minutes, nearly 40 seconds below the goal of three minutes. This represents a decrease in the average wait time of 13 seconds compared to FY 2005.

To help ensure quality and to identify areas where additional CSR training is needed, silent monitoring of calls to the district office phone banks continued during the fiscal year. Communications Specialists on DFEC's staff listen to both sides of a conversation and, using a standardized Quality Monitoring scorecard, document the CSRs' performance. The results of quality silent monitoring coupled with local telephone survey results show that 98.6 percent of



Federal Employees' Compensation Act

	FY 2005	FY 2006
Number of Employees (FTE Staffing Used)	912	870
Administrative Expenditures ¹	\$ 126.3 M	\$ 135.1 M
Cases Created	151,690	139,874
Wage-Loss Claims Initiated	21,455	19,819
Total Compensation and Benefits (Actual Obligations) ²	\$2,476.5 M	\$2,418.8 M
Number of Medical Bills Processed	4,898,090	4,844,286

¹ OWCP expenditures; excludes DOL support costs, but includes "fair share" capital expenditures of \$39.5 million in FY 2005 and \$46.7 million in FY 2006, respectively.
² Compensation, medical, and survivor benefits.

callers received courteous service, an increase of 0.6 percent over the previous fiscal year. Remaining nearly constant, use of clear and understandable language was reported in 98.9 percent of calls. Increasing one point over FY 2005's performance, 97.9 percent of calls met knowledge and accuracy standards. The goal of 95 percent was exceeded in each of these quality categories.

Sixty-one percent of calls to the district offices were responded to on the same day they were received. While falling short of the goal of 67 percent, this nevertheless represents a significant number of callers who received same-day service from the district offices. For calls not responded to on the same day, the average response time was 2.69 days, falling slightly short of the goal of 2.6 days. Nearly 95 percent of all calls are responded to in three days or less.



Black Lung Benefits Act

Introduction

The Division of Coal Mine Workers' Compensation (DCMWC) completed its thirty-third year administering Part C of the Black Lung program in 2006. The initial Black Lung benefits program was enacted as part of the Coal Mine Health and Safety Act of 1969 (the Act). This law created a system to compensate victims of dust exposure in coal mines with public funds initially administered by the Social Security Administration (SSA).

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

Current administration of the Black Lung Part C program is governed by legislation enacted in 1981. These 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 indebted to the U.S. Treasury by over \$1.5 billion at that time.

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

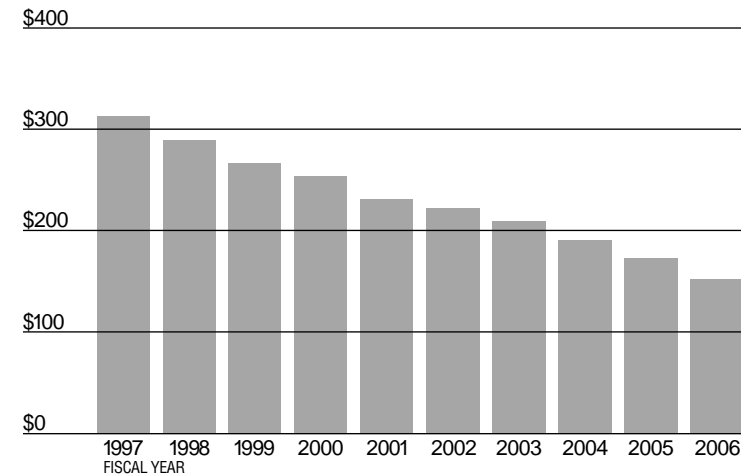
Benefits and Services

The Black Lung Part C program provides two types of benefits: monthly wage replacement and medical services. The program pays a standard monthly benefit (income replacement) to miners who are determined to be totally disabled from black lung disease, and to certain eligible survivors of deceased miners. The monthly rate of benefits is adjusted upward to provide additional compensation for up to three eligible dependents. In Fiscal Year (FY) 2006, monthly and retroactive benefit payments totaled \$265.4 million.

The Part C program also provides both diagnostic and medical treatment services for totally disabling pneumoconiosis. Diagnostic testing is provided for all miner-claimants to determine the presence or absence of black lung disease, and the degree of associated disability. These tests include a chest x-ray, pulmonary function study, arterial blood gas study, and a physical examination. Medical coverage for

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.

treatment of black lung disease and directly related conditions is provided for miner-beneficiaries. This coverage includes prescription drugs, office visits and hospitalizations. Also provided, with prior approval, are durable medical equipment (primarily home oxygen), outpatient pulmonary rehabilitation therapy and home nursing visits.

Medical expenditures under the Black Lung Part C program during FY 2006 were \$41.7 million. This includes payments of \$3.7 million for diagnostic services, \$35.5 million for medical treatment, and \$2.5 million in reimbursements to the United Mine Workers of America Health and Retirement Funds for the cost of treating Black Lung beneficiaries. Approximately 291,000 bills were processed during the year.

Total Black Lung Part C program expenditures for all benefits in FY 2006 were \$307.1 million, a decrease of \$22.8 million from FY 2005. In FY 2006, benefits were provided from the Trust Fund to approximately 35,000 beneficiaries each month.

State workers' compensation laws require coal mine operators to obtain insurance or qualify as a self-insured employer to cover employee benefit liabilities incurred due to occupational diseases that are covered by state law. If state workers' compensation is paid for pneumoconiosis, any Federal black lung benefit received for that disease is offset or reduced by the amount of the state benefit on a dollar-for-dollar basis. As of September 30, 2006, there were 1,407 Federal black lung claims being offset due to concurrent state benefits.

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 44 fee petitions and paid approximately \$0.6 million in attorneys' fees from the Trust Fund.

In FY 2006, 1,257 claims were forwarded for formal hearings before the Office of Administrative Law Judges (OALJ) and 520 claims were forwarded on appeal to the Benefits Review Board (BRB). At the end of FY 2006, the OALJ had 2,324 claims pending while 512 were pending before the BRB.

In the Black Lung Part B program, nearly 42,000 active beneficiaries (with over 4,200 dependents) were receiving approximately \$26 million in monthly cash benefits as of September 30, 2006. Part B benefits in FY 2006 totaled nearly \$316 million. DCMWC completed more than 6,700 maintenance actions on Part B claims during the year, on average less than one week from notification.

Black Lung Disability Trust Fund

The Trust Fund, established in 1977 to shift the responsibility for the payment of black lung claims from the Federal government to the coal industry, is administered jointly by the Secretaries of Labor, the Treasury, and Health and Human Services. Claims that were approved by SSA under Part B of the BLBA are not paid by the Trust Fund, but rather from the general revenues of the Federal government.

Trust Fund revenues consist of monies collected from the industry in the form of an excise tax on mined coal that is sold or used by producers; funds collected from responsible mine operators (RMOs) for monies they owe the Trust Fund; payments of various fines, penalties, and interest; refunds collected from claimants and

beneficiaries for overpayments; and repayable advances obtained from Treasury's general fund when Trust Fund expenses exceed revenues. Excise taxes, the main source of revenue, are collected by the Internal Revenue Service and transferred to the Trust Fund. In FY 2006, the Trust Fund received a total of \$607.4 million in tax revenues. An additional \$5.0 million was collected from RMOs in interim benefits, fines, penalties, and interest. Total receipts of the Trust Fund in FY 2006 were nearly \$1.1 billion, including \$445 million in repayable advances from the Department of the Treasury.

Total Trust Fund disbursements during FY 2006 were almost \$1.1 billion. These expenditures included \$307.1 million for income and medical benefits, \$695.0 million for interest payments on repayable advances from the Treasury, and \$58.0 million to administer the program (\$33.1 million in OWCP direct costs and \$24.9 million for legal adjudication and various financial management and investigative support provided by the Office of the Solicitor, the OALJ, the BRB, Office of the Inspector General, and the Department of the Treasury).

In 1981, the Black Lung Benefits Revenue provisions temporarily increased the previous excise tax to \$1.00 per ton for underground coal and \$0.50 per ton on surface mined coal, with a cap of four percent of sales price. In 1986, under the Comprehensive Budget Reconciliation Act of 1985, excise tax rates were increased again by 10 percent. The rates for underground and surface mined coal were raised to \$1.10 and \$0.55 per ton respectively, and the cap was increased to 4.4 percent of the sales price. These tax rates will remain until 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.

Central Medical Bill Processing Performance Assessment

OWCP's medical bill processing service continued to achieve improvements in operating efficiency and effectiveness. DCMWC realized a \$350,000 reduction in medical costs due to further system improvements in editing bills.

Timely and accurate medical bill processing is a critical element in administration of the Black Lung Program. In FY 2006, pharmacy bill processing was enhanced to ensure that the therapeutic class of drugs and medications is related or relevant to treatment for black lung diseases.

In FY 2006, the vendor processed 290,998 Black Lung bills. Ninety-nine percent of bills were processed within 28 days. The number of telephone calls handled was 44,384. Enrollment of 1,334 new providers brought the total of enrolled providers to 100,835.

DCMWC was reviewed in 2003 using the Program Assessment Rating Tool. The Black Lung program achieved a rating of "Moderately Effective," and the assessment noted that the program purpose is clear, that the program effectively targets its resources, has ambitious long-term performance measures, and maintains a relatively low (less than two percent) erroneous payment rate. To build on this, the assessment provided a number of recommendations for improvement that DCMWC began to implement in FY 2004. These initiatives included a renewed focus on reducing the Trust Fund's debt (see below for details), setting a schedule of annual targets for improving performance in both Government Performance Results Act (GPRA) goals and claims processing times, studying medical cost indices to evaluate cost containment plans, evaluating personnel utilization and allocation, and conducting an independent study of the program to compare it to similar workers' compensation programs and suggest practices and procedures for improvement.

During FY 2006, an independent consulting firm continued its evaluation of the Black Lung Program's outcomes, cost-effectiveness, and efficiencies in order to compare them to those of similar compensation programs. This evaluation was renewed for a second year after the consultant delivered its preliminary assessment in FY 2005, which included recommendations for modifications in the Accountability Review process, succession planning and training, and changes in data collection. In FY 2006, the consultant conducted a statistical projection of claim trends to 2020 and initiated a study of best practices of other compensation systems.

Legislative Proposal to Address Trust Fund Insolvency

Although tax receipts to the Trust Fund were sufficient to cover benefits, current operating costs and some interest charges, the Trust Fund needed to borrow \$445 million from the Treasury to pay the balance of the FY 2006 interest due. By the end of FY 2006, the Trust Fund's cumulative debt to the Treasury was \$9.6 billion. Since benefit payments for Black Lung claims in the late 1970's and early 1980's far exceeded revenues, the Trust Fund was forced to draw on repayable advances from the Treasury to meet benefit obligations. While operating costs are now covered by revenue, the Trust Fund's debt continues to climb. The Trust Fund now must borrow to cover its debt service, which amounted to nearly \$695 million at the end of FY 2006.

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 prevalent during the 1980's, thereby taking advantage of current and lower Treasury interest rates.

Extend until the debt is repaid the current Trust Fund excise tax levels (\$1.10 per ton for coal mined underground; \$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 Treasury's loss of income caused by the restructuring.

After consultation with interested parties and the staffs of the appropriate Congressional committees, DOL and Treasury staffs prepared a revised version of the proposed legislation that was previously transmitted to Congress in 2000, 2002, and 2004. Secretary Chao and Treasury Secretary Snow transmitted the revised legislative proposal to the Congress on September 13, 2005. The bill was introduced in the House of Representatives on September 27, 2005, and it was referred to the House Ways and Means Committee as HR 3915. At the end of FY 2006, HR 3915 was still pending before the Ways and Means Committee.

Government Performance Results Act

In FY 2006, DCMWC continued its efforts to reach DOL's GPRA goal to "minimize the human, social, and financial impact of work-related injuries for workers and their families." DCMWC achieved its goal to:

Increase by 13 percent over the baseline established in FY 2001 the percentage of Black Lung benefit claims filed under 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 2006, 81.9 percent of claims were resolved with no pending requests for further action (against a target of 79.5 percent). The Black Lung program will continue to work closely with both its stakeholder and authorized provider communities to ensure that delivery of services continues to improve and performance standards are met.



Management Of SSA Part B Black Lung Claims FY2006

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

Completing More Than 6,700 Maintenance Actions, With Average Completion Time Of Less Than One Week From Notification.

Managing The Expenditure Of Almost \$316 Million In Benefits.

DCMWC Was Responsible For Nearly 42,000 Active Part B Cases.

During FY 2006, DCMWC prepared for a conversion of the ASP database to ESA's Enterprise Architecture database platform. Conversion of the sub-systems began in FY 2006 as DCMWC worked closely with ESA to ensure a smooth transition to the new platform, scheduled for FY 2007.

Claims Processing Timeliness

The average time required to process a claim from the date of receipt to the issuance of a Proposed Decision and Order (PDO) declined from 259 days in FY 2005 to 247 days in FY 2006, exceeding the program's goal of 250 days. The number of new claims decreased from 4,567 during FY 2005 to 4,120 in FY 2006. The number of claims awaiting issuance of a Schedule for the Submission of Additional Evidence by a district director declined from 1,801 at the end of FY 2005 to 1,461 at the end of FY 2006. The number of claims pending a PDO also declined, from 1,304 to 1,053.

Operation and Maintenance of Automated Support Package

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

Compliance Assistance

Section 423 of the BLBA requires that each coal mine operator subject to the BLBA 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.

According to FY 2006 estimates by DOL's Mine Safety and Health Administration, there were 2,025 active coal mine operators subject to the requirements of the BLBA. Under the BLBA, the Secretary of Labor can authorize a coal mine operator to self-insure after an analysis of the company's application and supporting documents. At the close of FY 2006, 70 active companies were authorized by the Secretary of Labor to self-insure. These self-insurance authorizations cover approximately 680 subsidiaries and affiliated companies.

The Responsible Operator (RO) Section staff in DCMWC's national office is specifically assigned to record the existence of coal mine operators and their insurance status. The staff answers frequent written, telephone, and e-mail inquiries from operators and insurance carriers and evaluates requests for self-insurance.

During FY 2006, the RO section sent form letters to 1,223 coal mine operators reminding them of their statutory requirement to insure and stay insured against their potential liability for black lung benefits. Of these, 1,009 were found to be insured, 52 were insured through a parent entity or not engaged in coal mining, and 137 were uninsured companies that required assistance. The remaining 25 were returned unclaimed, delivered with no response, or failed delivery for another reason. Letters also were mailed to commercial insurers reminding them of the statutory requirements for writing black lung insurance and for annual reporting to DCMWC of the companies insured and policy numbers.

These letters generated many questions from underwriters and resulted in improved compliance. During FY 2006, DCMWC received 3,379 reports of new or renewed policies.

Section 413(b) of the BLBA requires DCMWC to provide each individual miner who files a claim for benefits with the opportunity to undergo a complete pulmonary evaluation at no cost to the miner. The project to improve the quality of these medical evaluations and reports continued during FY 2006, with District Directors and national office staff making visits to physicians and clinics. During their visits, DCMWC staff reviewed the physicians' written evaluations of the medical information obtained during the complete pulmonary evaluations and made suggestions for improving and standardizing the evaluations and reports. DCMWC officials also met several times with physicians at state and national conferences of the National Coalition of Black Lung and Respiratory Disease Clinics to help improve reporting.

Litigation

COURTS OF APPEALS

During FY 2006, the courts of appeals issued 28 decisions in cases arising under the BLBA. Fifty-two new appeals were filed. The following summarizes the most significant appellate decisions, grouped by their particular issue and location in the CFR:

Statute of Limitations: 30 U.S.C. § 932(f) and 20 C.F.R. § 725.308. The statute and regulations limit the time period during which a miner may file a claim to three years after a medical determination of total disability due to pneumoconiosis is communicated to the miner. The Fourth Circuit issued two decisions applying these provisions. In *Consolidation Coal Co. v. Williams*, 453 F.3d 609 (4th Cir. 2006), the Fourth Circuit considered whether a physician's diagnosis of total disability due to pneumoconiosis that the miner received, but did not submit, before the Department denied his first claim triggered the running of the three-year statute of limitations for the miner's second claim. The court agreed with the Department's position that the denial of the first claim rendered any prior physician's opinion of total disability due to pneumoconiosis a misdiagnosis, whether that opinion had been submitted to the Department or not, and therefore ineffective to trigger the running of the statute of limitations. The Fourth Circuit's opinion comports with the Tenth Circuit's construction of the statute in *Wyoming Fuel Co. v. Director, OWCP*, 90 F.3d 1502, 1507 (10th Cir. 1996) (holding that a finding that a miner is not totally disabled due to pneumoconiosis "repudiates any earlier medical determination to the contrary and renders prior medical advice to the contrary ineffective to trigger the running of the statute of limitations.").

In *Island Creek Coal Co. v. Henline*, 456 F.3d 421 (4th Cir. 2006), the coal company elicited testimony from the miner that a physician told him more than three years before he filed his claim for benefits that he was totally disabled due to pneumoconiosis. The administrative law judge determined that the miner's contradictory testimony on this point was not credible, and therefore rejected the company's statute of limitations defense. On appeal, the Benefits Review Board affirmed the judge's rejection of the company's defense, but based its decision on a different ground. The Board reasoned that the limitations period is triggered only when a miner receives written notice that he is totally disabled due to pneumoconiosis. Because there was no such notice in the record, the Board held that the judge had properly deemed the claim timely. The Fourth Circuit reversed on this point, holding "that neither the BLBA nor the implementing regulations require that the notice to a miner of a medical determination of his total disability due to pneumoconiosis be in writing in order to trigger the start of the three-year statute of limitations clock on black lung claims." The court then remanded the case to the Board to consider whether the judge had properly deemed the miner's testimony insufficient to establish the company's limitations defense.

Legal pneumoconiosis and the disease-causation presumption: 30 U.S.C. §§ 902(b), 921(c)(1); 20 C.F.R. §§ 718.201(a), 718.203(b). In *Andersen v. Director, OWCP*, 455 F.3d 1102 (10th Cir. 2006), the court clarified what a claimant must prove to establish compensable "legal pneumoconiosis." The regulations define "legal pneumoconiosis" as including "any chronic lung disease or impairment and its sequelae arising out of coal mine employment." 20 C.F.R. § 718.201(a)(2).

Here, the miner proved he suffered from chronic obstructive pulmonary disease, but did not offer persuasive evidence that his disease arose out of his coal mine employment. Instead, he relied on a statutory presumption in an attempt to fill this proof gap. The presumption provides that “[i]f a miner who is suffering from . . . pneumoconiosis was employed for 10 years or more [as a coal miner] there shall be a rebuttable presumption that his pneumoconiosis arose out of his coal mine employment.” 30 U.S.C. § 921(c)(1). Rejecting the miner’s arguments, the court held that chronic obstructive pulmonary disease does not fall within the definition of legal pneumoconiosis unless the miner affirmatively proves his coal mine employment caused the disease. The court further held that the ten-year-causation presumption logically applies only to “clinical pneumoconiosis” (i.e. diseases recognized by the medical community as pneumoconiosis), and not legal pneumoconiosis.

BENEFITS REVIEW BOARD

During FY 2006, the BRB issued 706 black lung decisions, several of which significantly affect the Secretary’s administration of the benefits program.

The following summarizes some of the more significant decisions of the Board, categorized by issue:

Statute of Limitations. The BRB issued two decisions interpreting the Act’s statute of limitations, which provides that a claim for benefits must be filed within three years of a medical determination of total disability due to pneumoconiosis that has been communicated to the miner. In *Sturgill v. Bell County Coal Corporation*, 23 Black Lung Rep. 1-160 (2006), the Board agreed with the Director and held that an OWCP district director’s preliminary finding of eligibility did not trigger the three-year statute of limitations. The Board reasoned that the district director’s conclusion was a legal determination and not the medical determination required by the Act. In *Brigance v. Peabody Coal Company*, 23 Black Lung Rep. 1-171 (2006), the Board held that a claimant’s application for black lung benefits was timely filed even though the claimant testified that two physicians had told him he was totally disabled due to pneumoconiosis in connection with his earlier claim for state workers’ compensation benefits. The Board held that Sixth Circuit precedent, which governed this case, requires “the trigger of [a] reasoned opinion of a medical professional” to commence the limitations period, and that the claimant’s testimony in this case did not demonstrate that the standard was met.

Evidentiary Limitations. The Secretary’s regulations impose limitations on the amount of medical evidence that each party may submit: (1) in support of its affirmative case; (2) in rebuttal of evidence submitted by the opposing party; and (3) to rehabilitate evidence made the subject of rebuttal. The BRB issued several significant decisions addressing the evidentiary limitations during FY 2006:

The program regulation governing admission of evidence at the hearing states that evidence that exceeds the limitations “shall not be admitted into the hearing record in the absence of good cause.” In *Brasher v. Pleasant View Mining Company*, 23 Black Lung Rep. 1-142 (2006), the BRB agreed with the Director and held that if a party submits more medical evidence than is allowed under the evidentiary limitations, and fails to argue good cause for its admission, the ALJ may find the good cause issue waived.

The regulations require that a physician who prepares a medical report may consider only medical evidence that is consistent with the evidentiary limitations but do not specify a sanction for the report of a physician who relies on inadmissible evidence. In *Harris v. Old Ben Coal Company*, 23 Black Lung Rep. 1-104 (2006), the BRB held that, when confronted with such a report, an ALJ has discretion to take appropriate action, such as considering only portions of the report or excluding the report from the record entirely.

In *Webber v. Peabody Coal Company*, 23 Black Lung Rep. 1-128 (2006), the BRB held that the evidentiary limitations apply to medical evidence submitted under a catch-all provision that allows admission of “other medical evidence” not specifically addressed in the program regulations, such as CT-scans. It concluded that a party may submit only one interpretation or set of results from each such test as part of its affirmative case. The BRB also held that readings of digital chest x-rays must be considered under the “other medical evidence” provision rather than under the provision governing consideration of standard x-rays.

Finally, the BRB addressed a provision of the evidentiary limitations that allows a party to submit as rebuttal evidence “one physician’s interpretation of each chest x-ray . . . submitted” by the opposing party in support of its affirmative case. Agreeing with the Director, the BRB held that this provision allows a party to submit one x-ray interpretation in rebuttal for each interpretation submitted by the opposing party, even if the interpretations are of the same film. *Ward v. Consolidation Coal Corporation*, 23 Black Lung Rep. 1-152 (2006).

Claim Withdrawal. Under the program regulations, an ALJ may approve a request to withdraw a claim if it is in the best interests of the claimant. Withdrawn claims are considered not to have been filed. In *Bailey v. Dominion Coal Corporation*, 23 Black Lung Rep. 1-87 (2005), the BRB affirmed an ALJ's decision to allow a miner to withdraw his black lung claim notwithstanding the employer's objection. Agreeing with the Director, the BRB held that the program regulations do not require an ALJ to consider the employer's interests when evaluating a withdrawal request.

Responsible Operator. Under the program regulations, the district director may retain as a party to the claim only one potential responsible operator when a case is referred to the OALJ for hearing; if that operator is later dismissed, the Trust Fund will be liable for benefits. To insure that the district director's decision is based on the same evidence available to the ALJ, the regulations require that the ALJ cannot consider documentary evidence pertaining to the liability issue that was not

submitted to the district director in the absence of extraordinary circumstances. In *Weis v. Marfork Coal Company, Inc.*, 23 Black Lung Rep. 1-183 (2006), *appeal docketed*, No. 06-1913 (4th Cir. August 16, 2006), the Board held that such documentary evidence includes chest x-ray readings submitted for the purpose of absolving a responsible operator of liability.



Black Lung Benefits Act

	Part C ¹		Part B ²	
	FY 2005	FY 2006	FY 2005	FY 2006
Number of Employees (FTE Staffing Used)	199	191	16	16
OWCP Administrative Expenditures ³	\$ 32.2 M	\$ 32.7 M	\$ 5.2 M	\$ 5.2 M
Total Compensation and Benefit Payments ⁴	\$329.9 M	\$307.1 M	\$ 346.3 M	\$315.5 M
Beneficiaries in Pay Status at End of Fiscal Year				
Monthly	36,325	33,954	46,562	41,625
Medical Benefits Only	3,636	2,891	N/A	N/A
Responsible Coal Mine Operator Beneficiaries in Pay Status at End of Fiscal Year				
Monthly	5,562	5,076	N/A	N/A
Medical Benefits Only	1,146	951	N/A	N/A

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

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

³ Under Part C, excludes DOL and Department of Treasury support costs of \$24.8 million in FY 2005 and \$25.3 million in FY 2006, respectively. Also excludes interest on the Trust Fund debt.

⁴ Part C excludes collections from responsible coal mine operators for benefits paid by the Trust Fund on an interim basis, refunds for OWCP administrative costs paid, and other miscellaneous reimbursements.



Longshore and Harbor Workers' Compensation Act

Introduction

Enacted in 1927, the Longshore and Harbor Workers' Compensation Act (LHWCA) provides compensation for lost wages, medical benefits, and rehabilitation services to longshore, harbor and other maritime workers who are injured during their employment or who contract an occupational disease related to employment. Survivor benefits also



are provided if the work-related injury or disease causes the employee's death. These benefits are paid directly by an authorized self-insured employer, through an authorized insurance carrier, or in particular circumstances, by an industry-financed Special Fund.

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

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

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

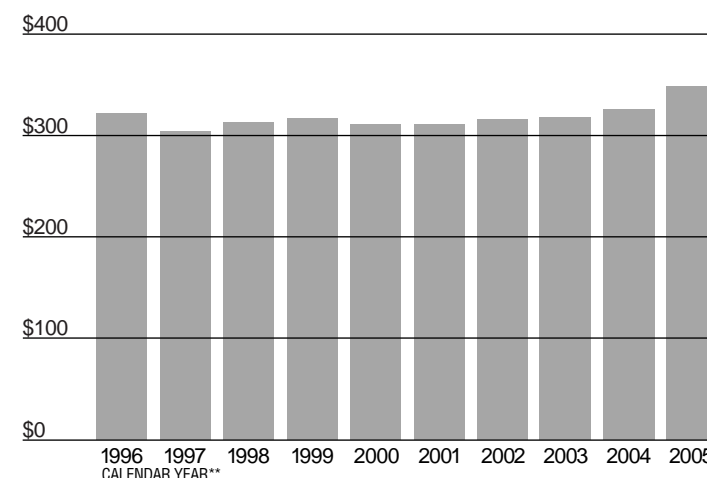
The Outer Continental Shelf Lands Act of August 7, 1953, extended Longshore benefits to employees of firms working on the outer continental shelf of the United States, such as off-shore drilling enterprises engaged in exploration for and development of natural resources.

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

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

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.

Operations

Disability compensation and medical benefits paid by insurers and self-insurers under LHWCA and its extensions totaled \$650.7 million in Calendar Year (CY) 2005, an 8.2 percent increase compared to CY 2004.

In Fiscal Year (FY) 2006, total DOL expenditures for program operations and the administration of LHWCA and its extensions were \$25.6 million, of which \$10.7 million were the direct costs of OWCP. The remaining nearly \$15.0 million represents the cost of legal, audit, and investigative support provided by the Office of Administrative Law Judges (OALJ), the Benefits Review Board (BRB), the 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 92 people in the national office and 11 district offices.

During FY 2006, approximately 540 self-insured employers and insurance carriers reported 23,537 lost-time injuries under the LHWCA. At year's end, 14,586 maritime and other workers were in compensation payment status.

Significant attention continued to be focused on Longshore program operations related to the DBA. Activities under the DBA were primarily the result of the conflict in Iraq, Afghanistan, and related military activities in the Middle East. Injuries occurring under DBA are reported to DLHWC District Offices determined by the geographic location of the injury occurrence. Injuries to covered employees in the Middle East are reported to the New York DLHWC District Office, where claim files are maintained, provisions of the DBA are enforced, and dispute resolution services offered. The total number of claims filed under DBA in FY 2006 was 5,075.

Longshore Special Fund

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

under sections 39(c) and 8(g) for providing rehabilitation assistance to persons covered under the LHWCA, and under section 7(e) to pay the cost of medical examinations.

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

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

The LHWCA Special Fund paid \$133.3 million in benefits in FY 2006, of which \$123.4 million was for second injury (section 8(f)) claims. FY 2006 expenditures from the DCCA Special Fund totaled \$10.2 million, of which \$9.4 million was for second injury cases.

Government Performance Results Act

In FY 2006, DLHWC set the following target for the indicator under the DOL strategic goal to “minimize the human, social, and financial impact of work-related injuries for workers and their families”:

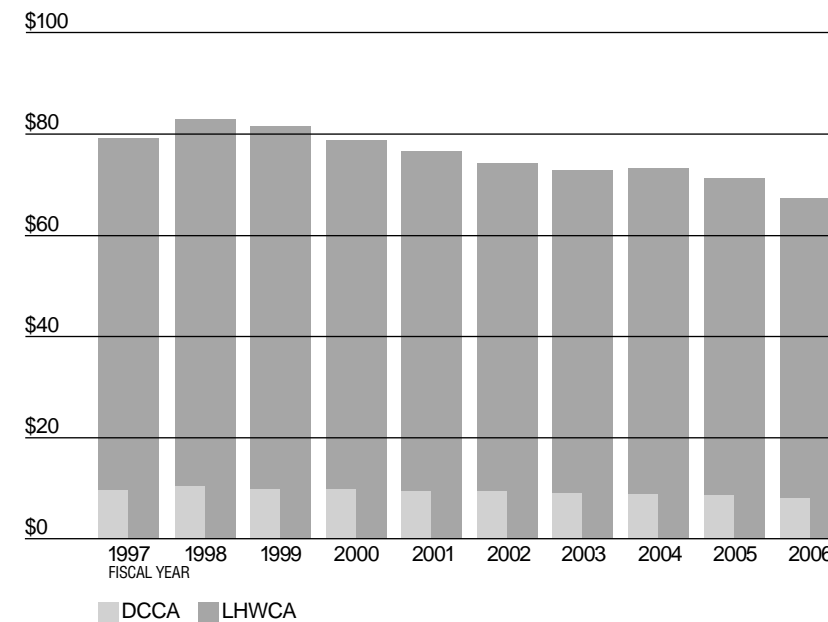
To reduce by one percent versus the FY 2005 baseline the average time required to resolve disputed issues in LHWCA program contested cases, from an average of 254 days in FY 2005 to 250 days in FY 2006.

This indicator is intended to measure OWCP’s success in resolving claim disputes between injured workers and their employers and insurers. Dispute resolution is one of the core missions of the Longshore program. While not a judge or a hearing officer, a Longshore claims examiner contributes to the resolution of disputed issues by acting as a mediator in informal proceedings designed to help parties to a claim reach amicable agreement and thereby avoid the time and expense required by formal litigation. In FY 2006, the district offices conducted 2,386 informal conferences that were designed to establish the facts in each case, define the disputed issues and the positions of the parties in respect to those issues, and encourage their voluntary resolution by means of agreement and/or compromise.

To ensure that the goals of this indicator remain ambitious, OWCP expanded the scope of the Longshore program’s dispute resolution measurement in FY 2006 to include two additional dispute types, those of Last Responsible Employer and Attorney Fees. New targets were developed and adopted in FY 2005 for implementation from

LHWCA and DCCA Special Funds’ Expenditures, FY 1997-FY 2006

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.

FY 2006 through FY 2008. The goal is to reduce by one percent each year for three years the average time required to resolve disputes. In FY 2006, disputed issues covered by this measure were resolved in an average of 235 days, 15 days below the target of 250 days. The program’s success was in large part due to the efforts of the district office staff to increase the proportion of disputes resolved at the OWCP level without the need for formal hearing.

OWCP continues to provide its claims staff with additional training to improve mediation skills and case management strategies to shorten the time required to resolve disputes.

Performance Assessment

In response to the recommendations from the 2005 Program Assessment Rating Tool (PART), the Longshore program continues to implement and monitor a number of actions. An independent study was completed in FY 2006 by a private consulting firm. The study results included recommendations for extensive upgrades to the automated claims management system to improve benefit tracking and allow benchmarking against workers’ compensation programs in various states. The program continues to evaluate means to update its automated systems. A second study was initiated in FY 2006 with the same contractor to evaluate the overall effectiveness and efficiency of the program. The results of this study, including recommendations, are anticipated in mid-FY 2007.

Based on the PART evaluation and in reaction to the submission of legislative reform proposals by industry, the program began an evaluation of the statute with the intention of submitting any requested responses or technical assistance. Although industry-submitted legislation was not acted upon in FY 2006, future industry proposals are anticipated.

DLHWC program performance, as measured by GPRA outcome metrics, quarterly reviews of district office performance, and periodic accountability reviews, is excellent.

Claims Management and Compliance Assistance Activities

DBA injury and death claims from civilian contractors in Iraq and Afghanistan continued to grow in FY 2006, with total claims increasing 17.2 percent over FY 2005 to 3,999, of which 247 involved the death of a worker. Between FY 2003 and FY 2006, a total of 12,915 DBA claims were filed, including 777 death claims, of which 8,735 claims (696 deaths) originated in Iraq and Afghanistan.

In response to the significant influx of claims from the Middle East, the Longshore program continued to hold educational seminars and workshops, meetings with the contracting agencies, and meetings and roundtable discussions with insurance industry leaders. These important outreach activities were designed not only to enhance the understanding of the insurance and contracting communities about the coverage requirements, claim responsibilities, and claim procedures under the DBA, but also to address especially challenging issues such as Post-traumatic Stress Disorder claims. Many enhancements were made to these program

activities as a result of ongoing efforts to collect audience feedback.

As part of the ongoing process to upgrade the Longshore program website, DLHWC in FY 2006 continued its efforts to update and otherwise enhance the information available to the public, including Compliance Assistance resources, electronic form submission capabilities, Frequently Asked Questions for Special Fund recipients, detailed information about the DBA, and legal briefs important to system participants.

Overall, FY 2006 was another very active year for Longshore's Compliance Assistance endeavors. DLHWC district offices conducted their annual survey of local coverage compliance to identify any hot spots of uninsured employers that needed intervention, and discovered none. To heighten industry awareness of coverage and procedural requirements of the LHWCA and of vocational rehabilitation and dispute resolution services offered by DLHWC district offices, District Directors also maintained a vigorous program of educational and compliance assistance activities around the country. In FY 2006, they and their staff participated in training workshops, roundtable meetings, insurance industry seminars, as well as in the Annual Longshore Conference held at the Loyola School of Law in New Orleans.

The study of the Longshore Case Management System (LCMS) by private contractor SRA was initiated in January 2005, with the final report and recommendations submitted in January 2006. The LCMS was developed in the

early 1980's as a tool for managing the internal processes of the Longshore Division, but was not intended for use as a program performance monitoring or measurement system. The study proposed three short-term and five long-term enhancements to the system, including the development of an interface with other OWCP automated systems and developing a new, customized program for Longshore's claims management functions. Other suggested changes included improved data collection and reporting capabilities, purchasing commercial case management and document management systems, and outsourcing system monitoring and comparison capabilities to two private organizations, the National Council on Compensation Insurance and the Workers' Compensation Research Institute. DLHWC is evaluating the potential for implementing the recommendations.

Security Requirements from Authorized Insurance Carriers

In FY 2005, the Longshore program promulgated and implemented regulations pertaining to the security deposits required of insurance companies. The first application of these new rules took place in FY 2006, with no challenges, complications, or complaints from the industry.

DLHWC continues to carefully monitor the industry's compliance with the regulations and their impact on the financial stability of the system and protection of the Longshore Special Fund. No adjustments to the program's implementation are currently envisioned.

In FY 2006, it was determined that the State of Washington's new guarantee fund warranted a reduction of security for claims arising under policies governed by the fund.

Rehabilitation Reforms

During FY 2006 a new performance measure for DLHWC's district office Rehabilitation Specialists was tested, using 2005 data as the baseline and a goal of a one percent annual improvement. The measure is the percentage increase in the number of rehabilitation participants who successfully complete approved rehabilitation plans and return to suitable work within 12 months of the completion of the plan. The new measure gives the Rehabilitation Specialists recognition for their work in recruiting claimants for the return-to-work program, and for guiding claimants to the successful completion of approved plans while keeping the primary focus on the overall goal of a successful job placement. The new measure was successful in achieving both goals – providing a measure of additional work by the staff and reaching the improvement goal for the year. Longshore will continue to refine this process, and will make it a regular performance measure for the program.

Litigation

During FY 2006, the Supreme Court denied certiorari in two cases. The courts of appeals published eight decisions, and three district court opinions were reported that discussed issues arising under the Longshore and Harbor Workers' Compensation Act. Important points from these cases, grouped by issue, are summarized below.

SUPREME COURT

The Supreme Court denied certiorari in *General Construction Co. v. Castro*, leaving undisturbed the Court of Appeals decision notwithstanding the submission of amicus briefs in support of the petition by four industry associations. 401 F.3d 963 (9th Cir. 2005), *cert. denied* 126 S.Ct. 1023 (2006). The employer's certiorari petition contended that because the claimant's injury was to a body part falling within the 33 U.S.C. § 908(c)(1)-(20) schedule, the Ninth Circuit's decision upholding an award for total disability benefits during the period the claimant participated in vocational rehabilitation conflicted with the Court's holding in *Potomac Electric Power Co. v. Director, OWCP*, 449 U.S. 268 (1980). The Supreme Court also left intact the Second Circuit's decision that the LHWCA covers a test engineer who drowned in Cayuga Lake, New York while testing sonar equipment on a research barge. *Lockheed Martin Corp. ACE USA v. Morganti*, 412 F.3d 407 (2nd Cir. 2005), *cert. denied*, 126 S.Ct. 2319 (2006). The Court of Appeals had held inapplicable the data processing exclusion from coverage found at 33 U.S.C. § 902(3)(A).

COURTS OF APPEALS

Aggravation Rule and 33 U.S.C. § 920(a) Presumption. The Seventh Circuit held that the 33 U.S.C. § 920(a) presumption of compensability did not apply to determine which of two potentially liable insurance carriers was responsible to pay the claimant's compensation. *Marinette Marine Corp. v. Director, OWCP (Baumler)*, 431 F.3d 1032 (7th Cir. 2005). The claimant injured his back in 1997 while the employer was insured by one carrier and then became disabled due to back problems in 2001 after the employer had changed carriers. The ALJ found that the 2001 incident amounted to a new injury because subsequent work aggravated the earlier injury and therefore the second carrier was responsible. The court rejected the second carrier's argument that the ALJ had erred by failing to apply the 33 U.S.C. § 920(a) presumption to the case because the aggravation rule is to be applied without any presumption.

Attorney Fees - 33 U.S.C. § 928(a) - Finality of Underlying Compensation Order for Purpose of Enforcing Attorney Fee Award. The Ninth Circuit affirmed a district court's determination that it lacked subject matter jurisdiction to entertain an action brought by a claimant's attorney seeking to enforce an award of attorney fees for work performed before an ALJ because the attorney's own appeal of the award remained pending before the Benefits Review Board. *Christensen v. Stevedoring Services of America, Inc.*, 430 F.3d 1032 (9th Cir. 2005). The ALJ awarded some but not all the fees requested and the claimant's attorney appealed that decision while simultaneously seeking enforcement of the portion that was awarded. The court conceded the logic of the attorney's argument that a portion of the ALJ's attorney fee award was final because

the employer did not appeal to the Board. The court nevertheless held it lacked jurisdiction in light of the plain language of 33 U.S.C. § 928(a) requiring that the order be final.

Attorney Fees - 33 U.S.C. § 928(b). The Sixth Circuit joined the Fourth and Fifth Circuits in requiring that in order to shift attorney fee liability to the employer under 33 U.S.C. § 928(b), the district director must: (1) hold an informal conference; and (2) issue a written recommendation calling for the payment of compensation. In addition, the employer must refuse to accept that recommendation and the claimant must receive a compensation award for an amount greater than that paid or tendered by the employer. In *Pittsburgh & Conneaut Dock Co. v. Director, OWCP (Bordeaux)*, 456 F.3d 616 (6th Cir. 2006), *reh'g. pending*, the employer voluntarily paid compensation for temporary disability but disputed the claim for permanent total disability (PTD). Although the district director held an informal conference, he made no substantive recommendation on the PTD claim, noting only that the parties were considering settlement. An ALJ subsequently awarded PTD benefits. The Sixth Circuit held that neither 33 U.S.C. §§ 928(a) nor (b) applied and that therefore the employer was not liable for claimant's attorney's fees.

Attorney Fees - 33 U.S.C. § 928(c) - Jurisdiction of Court of Appeals to Award Attorney Fees for Successful Opposition to Certiorari Petition. In *Stevedoring Services of America v. Price*, 432 F.3d 1112 (9th Cir. 2006), the claimant's attorney successfully opposed the employer's petition for certiorari and then applied to the Supreme Court for fees. *Stevedoring Services of America v. Price*, 432 F.3d 1112 (9th Cir. 2006), *order denying certiorari*, 544 U.S. 960 (2005). That motion was denied without prejudice subject to his filing a fee petition with the Ninth Circuit. 126 S. Ct. 1456 (2006). When the claimant's attorney filed in the court of appeals, that court denied the fee application because the work done to oppose the certiorari petition was not performed before the Ninth Circuit. The court also reasoned that the Supreme Court's order did not explicitly delegate jurisdiction to the Ninth Circuit and the plain language of 33 U.S.C. § 928(c) was too restrictive to establish jurisdiction. It declined to follow the D.C. Circuit which had construed an analogous order as establishing jurisdiction. *Hensley v. Washington Metropolitan Area Transit Authority*, 690 F.2d 1054 (D.C. Cir. 1982). Subsequently, after claimant's renewed motion, the Supreme Court expressly referred the application for attorney's fees and costs to the Ninth Circuit for adjudication.

Coverage: Status. The Ninth Circuit adopted the Director's interpretation of a "harbor worker" to include workers directly involved in the construction of a harbor facility, even if the workers' specific job duties are not maritime in nature. Thus, such workers are covered under 33 U.S.C. § 902(3) because they are engaged in maritime employment. *Healy Tibbitts Builders, Inc. v. Director, OWCP (Maumau)*, 444 F.3d 1095 (9th Cir. 2006). Maumau, a heavy equipment operator, was killed while excavating a utility line trench to support submarine berthing wharves being renovated in Pearl Harbor. The court found the Director's interpretation reasonable and consistent with the LHWCA's remedial purpose and with prior precedent of the Board and other courts of appeal. Observing that 33 U.S.C. § 902(3)(C) excludes from coverage those marina employees not engaged in construction, replacement, or expansion of the marina, the Court reasoned that this language supported the conclusion that those who are engaged in the construction of uniquely maritime structures, such as the submarine berthing wharves here, are covered.

Defense Base Act, 42 U.S.C. § 1651, et seq. (DBA) Exclusivity and Federal Preemption. In a case involving the deaths of four security experts working for U.S. military contractors in Iraq, the Fourth Circuit issued a decision exploring both federal court jurisdiction and the removal statute, 28 U.S.C. § 1441 et seq. In *Blackwater Security Consulting v. Richard P. Nolan*, 460 F.3d 576 (4th Cir. 2006), the Fourth Circuit denied a request for a writ of mandamus and also determined that it did not have jurisdiction to review a district court decision remanding wrongful death and fraud claims case to the North Carolina courts. Blackwater had attempted to remove the case to federal court arguing that the decedents' work was covered by the DBA, which provided an exclusive remedy, 42 U.S.C. § 1651(c), completely preempted the state tort claims and limited the decedents' estates to workers' compensation benefits. The district court found that the DBA did not completely preempt the tort claims and that it therefore lacked jurisdiction. No determination was made whether the DBA covered the deaths. On appeal, the Fourth Circuit observed that ordinary preemption recognizes that some federal laws may provide a substantive defense to a plaintiff's state law claims and that Blackwater could assert its preemption argument in state court. Blackwater has filed a petition for certiorari.

Employer Liability for Medical Care and Supervision. 33 U.S.C. § 907(a) provides that an employer shall furnish such medical care and attendance as the nature of the injury requires.

In *M. Cutter Company, Inc., v. Carroll*, 458 F.3d 991 (9th Cir. 2006), the Ninth Circuit upheld the Board's determination that an ALJ erred in excusing the employer from paying all the care necessitated by the injury. The ALJ had found that although the injured worker required 24-hour supervision, the employer was required to pay for only part-time attendant care because the worker's wife could provide the remaining care "without substantial disruption to her quality of life."

Report of Earnings and "Disabled Employee" Under 33 U.S.C. § 908(j). In *Delaware River Stevedores v. DiFidelto*, 440 F.3d 615 (3rd Cir. 2006), the Third Circuit addressed whether 33 U.S.C. § 908(j), which authorizes an employer to require a disabled employee to report earnings semi-annually, applies to employees who are not receiving compensation. The employer argued that a person became a "disabled employee" as soon as the injury occurs. The Director contended that for purposes of this section, a person is not a "disabled employee" unless compensation is being paid at the time the earnings request is made. The Court held that the applicable regulation, 20 C.F.R. § 702.285(a), was clear and that although the statute was ambiguous with regard to the meaning of "disabled employee," its legislative history supported the regulation. The Court adopted the Director's interpretation and found that DiFidelto was not obliged to respond to a request for earnings information that was made when the employer was not paying compensation.

DISTRICT COURT

Contempt under 33 U.S.C. § 927(b). After considering facts certified to it by an ALJ pursuant to 33 U.S.C. § 927(b), a district court determined that it was required to hold a summary evidentiary hearing and make its own independent findings regarding the claimant's alleged contempt before the ALJ. In *re D'Acquisto*, 403 F.Supp.2d 389 (E.D. Pa. 2005). After the claimant failed to attend a deposition and undergo medical examinations in a LHWCA proceeding, the ALJ granted the employer's request to certify facts to the district court for appropriate sanctions under 33 U.S.C. § 927(b). The court reasoned that the statutory LHWCA language was identical to that in 28 U.S.C. § 636(e) which had been interpreted to require a hearing and court findings.

Enforcement under 33 U.S.C. § 921(d). A district court that previously determined that it had jurisdiction to enforce a compensation award to a worker exposed to environmental pollutants in Kazakhstan while performing DBA covered work,

declined to consider additional medical expenses claimed by the worker until after the DOL had first evaluated them. *Cohen v. Pragma Corp.*, 445 F.Supp.2d 15 (D. D.C. 2006). The ALJ had ordered the employer to pay the claimant future medical expenses but the specific expenses sought by the claimant before the district court had never been evaluated by either the ALJ or the district director.

Jurisdiction: Exclusivity of Administrative Jurisdiction over "all questions in respect of a claim." Under 33 U.S.C. § 919(a), an ALJ has exclusive initial jurisdiction over "all questions in respect of a claim" for benefits. The Director, OWCP, intervened in and sought partial dismissal of a district court declaratory judgment proceeding brought by an insurer which sought a determination that it was not liable under the LHWCA after its insured's employee suffered

devastating injuries in the course of employment. *Insurance Company of North America v. San Juan Excursions, Inc. (Ralston)*, 2006 WL 2091059 (W.D. Wash. 2006). The insurer, which also provided general marine insurance for the employer, attempted to rely on the employer's breach of a term in the marine policy known as a lay-up warranty, contending that the breach voided the insurer's liability for the LHWCA benefits claim. The court held that an ALJ has subject matter jurisdiction over contractual disputes that are integral to determining liability for compensation and that here the insurance coverage dispute determined whether the insurer was liable for the employee's compensation. The court determined that it had no jurisdiction to entertain the issue of liability for an LHWCA claim and granted the Director's motion for partial dismissal.



Longshore and Harbor Workers' Compensation Act

	FY 2005	FY 2006
Number of Employees (FTE Staffing Used)	99	92
Administrative Expenditures ¹	\$ 12.5 M	\$ 12.7 M
Lost-Time Injuries Reported	24,980	23,537
Total Compensation Paid ²	\$750.3 M	\$798.4 M
Wage-Loss and Survivor Benefits	\$540.3 M	\$568.9 M
Medical Benefits	\$210.0 M	\$229.5 M
Sources of Compensation Paid		
Insurance Companies ²	\$278.9 M	\$325.0 M
Self-Insured Employers ²	\$322.5 M	\$325.7 M
LHWCA Special Fund	\$134.6 M	\$133.3 M
DCCA Special Fund	\$ 10.6 M	\$ 10.2 M
DOL Appropriation	\$ 2.6 M	\$ 2.4 M

¹ Direct administrative costs to OWCP only; excludes DOL support costs of \$15.0 million in FY 2005 and \$15.0 million in FY 2006, respectively.

² Figures are for CY 2004 and CY 2005, respectively. Note: Total compensation paid does not equal the sum of the sources of compensation due to the different time periods (CY v. FY) by which the various data are reported. For Special Fund assessment billing purposes as required by section 44 of LHWCA, compensation and medical benefit payments made by insurance carriers and self-insured employers under the Acts are reported to DOL for the previous calendar year.

Energy Employees Occupational Illness Compensation Program Act

Introduction

Congress passed the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act) in October 2000; Part B became effective on July 31, 2001. Part B compensates current or former employees (or their survivors) of the Department of Energy (DOE), its predecessor agencies, and certain of its vendors, contractors and



subcontractors, who were diagnosed with a radiogenic cancer, chronic beryllium disease, beryllium sensitivity, or chronic silicosis as a result of exposure to radiation, beryllium, or silica while employed at covered facilities. The EEOICPA also provides compensation to individuals (or their eligible survivors) awarded benefits by the Department of Justice (DOJ) under Section 5 of the Radiation Exposure Compensation Act (RECA).

Part E (effective October 28, 2004) replaced the former Part D of the EEOICPA. Part E of the Act compensates DOE contractor/subcontractor employees, eligible survivors of such employees, and uranium miners, millers, and ore transporters as defined by RECA Section 5.

From the program's inception to the end of Fiscal Year (FY) 2006, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) provided more than 21,000 employees or their families with compensation totaling more than \$2.1 billion under both Parts B and E of the Act and paid more than \$123 million for medical expenses associated with the treatment of accepted medical conditions. Part B compensation has totaled more than \$1.6 billion (since 2001) while Part E compensation has exceeded \$473 million (since 2005).

In FY 2006 alone, more than 5,000 employees or their families received Part B compensation of \$462.2 million. In addition, more than 2,300 employees or their families received Part E compensation of \$280.3 million. A total of \$41.7 million was paid in covered medical benefits in FY 2006 under both Parts B and E of the Act.

Administration

Executive Order 13179 designated four federal agencies to administer the Act: DOL, the Department of Health and Human Services (HHS), DOE, and DOJ. As the lead agency, DOL has primary responsibility for administering the Act, including adjudication of claims for compensation and payment of benefits for conditions covered by Parts B and E. DOL is focused on issuing quality decisions, and providing clear and effective communication to DEEOIC's customers and stakeholders. The EEOICPA has been and continues to be an intergovernmental activity, involving the coordinated efforts of the DOE, HHS, DOJ, as well as DOL. The DEEOIC is proud of its contribution to the overall progress that has been made in implementing both parts of the Act.

HHS, through its National Institute for Occupational Safety and Health (NIOSH), establishes procedures for estimating radiation doses, develops guidelines to determine the probability that a cancer was caused by workplace exposure to radiation, establishes regulations and procedures for designation of new Special Exposure Cohort (SEC) classes, and carries out the actual dose reconstruction for cases referred by DOL. HHS also provides the Advisory Board on Radiation and Worker Health with administrative services and other necessary support. The 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.

Under the Act, Congress established the SEC to allow eligible claims to be compensated without the completion of a radiation dose reconstruction or determination of the probability of causation. To qualify for compensation under the SEC, a covered employee must have at least one of twenty-two "specified cancers" and have worked for a specified period of time at an SEC facility. The Act designated four sites (the three gaseous diffusion plants in Oak Ridge, Tennessee; Paducah, Kentucky; and Portsmouth, Ohio; and an underground nuclear test site on Amchitka Island, Alaska) as belonging to the SEC. As of September 30, 2006, HHS had designated additional facilities, for certain workers and specified timeframes, as part of the SEC, including: Mallinckrodt Chemical Works, Destrehan Street Facility, St. Louis, Missouri; the Iowa Army Ammunition Plant, Burlington, Iowa (two classes); the Y-12 Plant, Oak Ridge, Tennessee; and five new classes added to the SEC in FY 2006. These FY 2006 SEC additions included the Ames Laboratory, Ames, Iowa; the Linde Ceramics Plant, Tonawanda, New York; the Nevada Test Site, Mercury, Nevada; the Pacific Proving Grounds, Marshall Islands; and the Oak Ridge Institute for Nuclear Studies, Oak Ridge, Tennessee. An additional class of employees at the Mallinckrodt Chemical Plant also became effective during FY 2006.

DOE provides DOL and HHS with relevant information on worker exposures, including access to restricted data and verification of covered employment.

DOJ notifies beneficiaries who have received an award of benefits under RECA Section 5 of their possible EEOICPA eligibility and provides RECA claimants with information required by DOL to complete the claim development process.

DEEOIC continued to receive a substantial number of new claims in FY 2006. In FY 2006 alone, DOL created a total of 5,472 new case files (7,908 claims) for living or deceased employees under Part B and 10,354 new cases (16,556 claims) under Part E. Each case represents an employee whose illness is the basis for a claim. One case may have multiple survivor claims.

The DEEOIC program's Final Adjudication Branch (FAB) maintains its central office in Washington, D.C., with offices collocated with each district office. The FAB provided reviews of each recommended decision made by the district offices to ensure that the Act's requirements, program policy, and procedures were followed. FAB also considered challenges brought forth by claimants through reviews of the written record or oral hearings. During FY 2006, FAB scheduled and conducted 663 oral hearings at locations near claimants, issuing final decisions regarding the claims and specific claimant challenges. In addition, claimants challenge FAB's final decisions through reconsideration and

reopening processes. Once claimants exhaust their administrative remedies under the Act, they may pursue judicial review at the district court level.

Benefits under the Act

While Parts B and E of the EEOICPA are separate programs with unique criteria for establishing positive claims, for greater efficiency, simplicity, and speed, in FY 2006 DEEOIC began to adjudicate all claims for benefits under Parts B and E as a unified claim. Where possible, decisions are issued that address both Parts B and E simultaneously. However, partial decisions may also be issued in cases where benefits under some provisions can be awarded, but claims under other provisions require further development. Workers or their survivors may qualify for both Part B and Part E benefits.

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

There are several different types of claims under Part B of the Act. Claims for the \$50,000 RECA supplement are the least complex, involving verification by DOJ that a RECA award has been made, and documentation of the identity of the claimant (including survivor relationship). For all claims, employment and illness documentation is developed by claims staff and evaluated in accordance with the criteria in the EEOICPA and relevant regulations and procedures. DOL district offices then issue recommended decisions to claimants.

For cases involving claimed cancers that are not covered by SEC provisions (that is, either cancers incurred at a non-SEC facility, a non-specified cancer incurred at an SEC facility, or an employee who did not have sufficient employment duration to qualify for the SEC designation), there is an intervening step in the process to determine causation called "dose reconstruction." In these instances, once DOL determines that a worker was a covered employee and that he or she had a diagnosis of cancer, the case is referred to NIOSH so that the individual's radiation dose can be estimated. After NIOSH completes the dose reconstruction and calculates a dose estimate for the worker, DOL takes this estimate and applies the methodology promulgated by HHS in its probability of causation regulation to determine if the statutory causality test is met. The standard is met if the cancer was "at least as likely as not" related to covered employment, as indicated by a

determination of at least 50 percent probability. DOL's district office then issues a recommended decision on eligibility for EEOICPA benefits. In FY 2006, the district offices referred 3,759 Part B cases to NIOSH for dose reconstruction.

Part E. EEOICPA's Part E establishes a system of federal payments for employees of DOE contractors and subcontractors (or their eligible survivors) for illnesses determined to have resulted from exposure to toxic substances at a DOE facility. Uranium miners, millers, and ore transporters as defined by Section 5 of the RECA may also receive Part E benefits. Benefits are provided for any illness once it is determined that the illness was at least as likely as not that exposure to a toxic substance was a significant factor in causing, contributing to, or aggravating the illness or death of an employee. Additionally, the Act provides that any determination made under Part B to award benefits (including RECA Section 5 claims), as well as any positive finding by a physician panel under Part D that was accepted by DOE, is an automatic acceptance under Part E for causation of the illness. The maximum benefit under Part E is \$250,000 for all claims relating to any individual employee.

Unlike Part B, which compensates employees with a uniform lump-sum payment of \$150,000 for certain occupational illnesses, regardless of how severe or debilitating that illness is, Part E compensates covered employees for the varying percentage of impairment of the whole person that is related to a covered illness. Impairments included in ratings are those that

have reached maximum medical improvement (MMI), i.e., they are well-stabilized and unlikely to improve substantially with or without medical treatment. MMI is not required if an illness is in a terminal or progressive stage. The Act specifically requires that impairment be determined in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment (AMA's Guides)*. Eligible employees receive \$2,500 for each percentage point of impairment found to be attributable to a covered illness under Part E.

Under Part E, covered employees may also be eligible to receive compensation for wage loss. Wage loss is based on each qualifying year (prior to normal Social Security Administration retirement age) in which, as a result of the covered illness, an employee's earnings fell a specific percentage below his or her average annual earnings for the 36-month period prior to suffering wage loss (not including periods of unemployment). The Act provides that covered, eligible employees may receive \$15,000 for any year in which they made less than 50 percent of their pre-disability average annual wage, as a result of a covered illness, and \$10,000 for any year in which they made more than 50 percent but less than 75 percent of that average annual wage. Medical benefits for the covered condition are also payable, in addition to compensation, and are not limited by the \$250,000 cap.

Part E survivor benefits include a basic lump sum of \$125,000 where it is established that the employee was exposed to a toxic substance at a DOE facility and that the exposure caused, contributed to, or aggravated the death of the employee. Part E also provides \$25,000 in additional benefits to eligible survivors, if the deceased employee had, as of his or her normal retirement age under the Social Security Act, at least ten aggregate calendar years of wage loss of at least 50 percent of his or her average annual wage. If an employee had twenty or more such years, the additional amount paid to an eligible survivor may increase to \$50,000. The maximum Part E compensation benefit for a survivor is \$175,000.

Recommended Decisions and Final

Decisions. The DEEOIC district offices issue recommended decisions (recommending either acceptance or denial of claims) to claimants. Claimants may agree with the recommended decision, or may object and request either a review of the written record or an oral hearing. In either case, FAB reviews the recommended decision and any evidence/testimony submitted by the claimant and issues a final decision, either awarding or denying benefits. FAB may also remand a decision to the district office if further development of the case is necessary. Claimants can appeal a Final Decision to the U.S. District Courts.

Due to the unusual (and at times confusing) eligibility boundaries established by Congress for the Part B and Part E programs, many applications have been received that do not meet the basic criteria of the EEOICPA (i.e., non-covered applications). Starting in FY 2006, the non-covered applications were separated out when reporting statistical counts to provide a more accurate picture of the Program. In FY 2006, DEEOIC district offices issued 13,207 claim-level recommended decisions of covered applications under Part B, and 16,458 claim-level recommended decisions of covered applications under Part E. The FAB issued 12,169 claim-level final decisions of covered applications under Part B, and 9,777 claim-level final decisions of covered applications under Part E, falling in line with the operational plan goals put in place for the issuance of final agency decisions for Part B and Part E claims. Under Part B, 6,103 claims (50.2 percent) received approval, while 6,066 (49.8 percent) were denied. Part B claim denials can be attributed to many factors, e.g., there was an ineligible survivor, or there was insufficient causal connection between the claimed employment, radiation exposure, and the condition or disease claimed. Under Part E, 6,357 claims (65.0 percent) received approval, while 3,420 (35.0 percent) were denied. The majority of the denials were based upon ineligible survivorship. Under Part E, in most instances an adult child of a deceased worker is ineligible for benefits under the statutory definition of a survivor. DOL is required to implement the statute as it is written, and such determinations are made based upon the facts of the case as they relate to the statutory requirements.

Funding

In FY 2006, DOL spent \$44.0 million under Part B and \$51.8 million under Part E to administer EEOICPA. These funds supported 251 full-time equivalent (FTE) staff for Part B and 188 FTE for Part E.

DOL funding covered direct and indirect expenses to administer the Washington, D.C. National Office; five Final Adjudication Branch Offices; four DEEOIC District Offices in Seattle, Washington; Cleveland, Ohio; Denver, Colorado; and Jacksonville, Florida; and twelve Resource Centers. (In FY 2006, DEEOIC closed the Alaska Resource Center, bringing the total of centers to 11 for a portion of the fiscal year). A private contractor processed medical bills to reduce overhead and to increase program efficiency. Under Part B in FY 2006, additional funding in the amount of \$59.8 million was passed through DOL to support activities at the Department of Health and Human Services' NIOSH. The NIOSH portion included \$4.5 million in funds for the radiation dose reconstruction process and support of the Advisory Board on Radiation and Worker Health. Under Part E, \$0.5 million in additional funds were used to support the appointment of an Ombudsman position.

Government Performance Results Act

DOL is committed to measuring its outcomes and maintaining accountability for achieving the fundamental goals of the Energy Employees Occupational Illness Compensation Program (EEOICP). High performance standards, focusing on moving EEOICP claims rapidly through the initial and secondary adjudication stages, were established.

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

For initial processing of Part B and Part E claims for benefits, DOL's FY 2006 goal was to complete initial processing in 50 percent of the cases within 180 days. Through the efforts of the four district offices, initial processing was completed within 180 days for 72 percent of the claims, exceeding the 50 percent goal.

In the processing of Part B and Part E final decisions through the efforts of FAB, 89 percent of final decisions in FY 2006 were completed within the program standards, also in excess of the goal of 80 percent.

DOL set an important goal to process to an initial determination 75 percent of the 25,000 cases inherited from DOE by the end of FY 2006. DOL accomplished that goal one month in advance of the target date; 17,968 cases, or 113.5 percent of the office goal, had received an initial determination.

Services to Claimants

From the Act's inception, DEEOIC's network of Resource Centers (RCs) at major DOE sites has provided in-person and telephone-based assistance to current and former DOE employees, contractors and subcontractors, uranium workers, and surviving family members who sought to file claims under the Act. The RCs were located near large nuclear weapon production and testing facilities in order to serve locations with the highest claimant populations. Staff members at the RCs helped claimants complete the necessary claim forms, assisted claimants in gathering the documentation necessary to support their claims, and forwarded claim forms and associated documentation to the appropriate District Offices in Cleveland, Denver, Jacksonville, and Seattle. The RCs also developed and maintained working relationships with local unions, medical providers, and other groups to spread the DEEOIC program message to workers, survivors of workers, and retirees.

DOL assumed sole management of the RCs in October 2004, after Congress replaced Part D of the Act with Part E and transferred over 25,000 cases to DOL. DEEOIC immediately sought to provide a cohesive strategy for its RCs that offered the right mix and distribution of human resources to best support the EEOICPA mission. In FY 2005, the agency's Most Efficient Organization (MEO) initiative designated that RCs assume additional responsibilities related to

initial employment verification and occupational history development for Part E claims. In FY 2006, DEEOIC closed the Alaska RC due to changes within DOE's Medical Surveillance Program, and transferred all claims and services to the Richland, Washington RC. Also in FY 2006, a new RC opened in Amherst, New York, in response to the needs of workers and their families from several facilities in Western New York. Following an open re-competition process, in September 2006 a new contractor began operation and management of DEEOIC's 11 RCs. The new contractor hired the incumbent resource center staff who continued to provide quality customer service to EEOICPA claimants.

DOL had selected RC facilities that provided accessibility for claimants, comfort, privacy / confidentiality in the design of office space, private offices for caseworkers and managers, reception areas, conference facilities as sites for oral hearings, secure file areas, and adequate storage. The Resource Center contractor now has 59 employees at 11 sites located in Livermore, California; Westminster, Colorado; Idaho Falls, Idaho; Paducah, Kentucky; Las Vegas, Nevada; Espanola, New Mexico; Amherst, New York; Portsmouth, Ohio; North Augusta, South Carolina; Oak Ridge, Tennessee; and Richland, Washington.

Under DOL's MEO initiative, the RCs continued to carry out responsibilities related to initial employment verification and Part E occupational history development. During FY 2006, RCs processed 7,702 initial employment verification requests and conducted 8,361 occupational history interviews.

In FY 2006, DEEOIC hosted 11 town hall meetings in nine locations throughout the country to help educate the public about the Part E program. In addition to the town hall meetings, DEEOIC representatives participated in and met with concerned claimant and claimant advocacy groups regarding the EEOICP. Other outreach activities included mailings, newspaper articles and advertisements, and meetings with congressional staffers to provide program information.

DEEOIC's Web site continued to be maintained with weekly content updates. The web site allowed claimants to access brochures, complete forms, and file claims electronically. The site also offered information about the statute and regulations governing Part B and Part E; the locations and times of town hall meetings; district office and resource center locations and contact numbers; press releases; medical provider enrollment information;

current claims processing and payments statistics, at the national, state, and facility levels; links to DOE, DOJ, and NIOSH websites; and toll-free numbers where additional information and assistance could be obtained. EEOICPA regulations, a searchable database of DEEOIC final decisions, a link to provide Part E information that includes the EEOICPA Part E procedure manual, and DEEOIC and NIOSH weekly Web statistics continue to be found on the web site. During FY 2006, DEEOIC also posted pertinent bulletins to its EEOICP News section on the program's home page.

While DEEOIC issued seven policy bulletins in FY 2005 primarily to clarify the administration of Part E, it issued 16 policy bulletins in FY 2006 to clarify administration of both parts of the program.

Under the Defense Authorization Act for Fiscal Year 2005, Public Law 108-375, 42 U.S.C. § 7385s-15, signed into law on October 28, 2004, an Office of the Ombudsman was created for a period of three years, to provide information to claimants, potential claimants, and other interested parties on the benefits available under EEOICPA and how to obtain those benefits. The Office of the Ombudsman, independent from OWCP, reports annually to Congress concerning complaints, grievances, and requests for assistance received during the calendar year covered by the report. In FY 2006, the Ombudsman's 2005 Annual Report was made available through a link from DEEOIC's Web site, and a policy analyst was assigned to work directly with the Ombudsman's office to promptly resolve any issues and concerns.

Central Medical Bill Processing

The OWCP bill processing vendor provided a high level of service to eligible employees and their medical providers in FY 2006. In addition, DEEOIC realized a \$6.3 million reduction in costs during the year due to further system improvements in editing bills.

Timely and accurate medical bill processing is a critical element in administration of the EEOICPA. In FY 2006, pharmacy bill processing was enhanced to ensure that the therapeutic class of drugs and medications is related or relevant to claimants' accepted conditions for compensation and benefits. Eighty-eight new District Medical Consultants were enrolled and associated "Prompt Pay Bills" were processed in an average of 10 days.

By the end of FY 2006, the vendor had processed 120,959 EEOICPA bills and handled 24,972 telephone calls. Authorizations for medical treatment were processed in an average of one workday and nearly 99 percent of bills were processed within 28 days. Enrollment of 1,042 new providers brought the total of enrolled providers to 94,355.

Database Systems

DEEOIC's Branch of Automated Data Processing Systems (BAS) is responsible for providing DEEOIC's internal and external customers an entire array of secure and reliable computer services and support. A major accomplishment for DEEOIC/BAS was a comprehensive Energy Case Management System (ECMS) data migration and system rebuild to increase performance and reliability. The migration and rebuild included all ECMS components: ECMS B, ECMS E, and ECMS Reports, as well as all web, statistical and management workload reports. This year-long effort culminated in a seamless

cutover to the new production environment on October 10, 2006.

DEEOIC/BAS also laid the groundwork in FY 2006 for its Unified Energy Case Management System (UECMS) Project by defining the conceptual vision and documenting extensive requirements that will integrate and expand legacy ECMS components to accommodate changing business needs. UECMS is planned for deployment in FY 2009. UECMS Project accomplishments in FY 2006: monthly Earned Value Management reporting to the Office of Management and Budget that maintained the required cost and schedule variance threshold of plus or minus 10 percent, and publication of a Request for Proposals soliciting vendors to design and build the new Unified ECMS.

Also in FY 2006, DEEOIC enhanced its database of "site exposure matrices" to help claims examiners determine the types of chemicals and toxic substances that existed at the major DOE facilities, easing claimants' evidentiary burdens and speeding the claims process. The Site Exposure Matrices (SEM) project conducted the pilot record review at Rocky Flats in February 2006. Overall, record reviews were conducted at 14 major DOE sites during FY 2006. In conjunction with the record review project, 35 roundtable meetings were held with current and former DOE workers. Onsite record reviews and roundtable meetings yielded information regarding 1,250 toxic substances. In addition, information obtained from DOE at the inception of the project (Former Worker Program data, Tiger Team assessments, Industrial Hygiene reports) was reviewed and evaluated by the SEM team and placed into the database. Exposure

information regarding 20 major DOE sites was housed in SEM by the end of FY 2006. In addition, the SEM team obtained and evaluated exposure data for 4,071 uranium mines and 48 uranium mills covered under RECA.

In conjunction with exposure development, the SEM project began working to improve exposure and medical data available in the Haz-Map website database. Haz-Map is a database housed by the National Library of Medicine that contains a wide array of information regarding occupational exposure to hazardous agents. DOL contracted with the author of Haz-Map to evaluate exposure information obtained during covered facility document reviews and to upload the author's analysis into Haz-Map. This work for the SEM project will assist DOL in developing and adjudicating claims filed under Part E of EEOICPA.

Regulatory Activities

On June 8, 2005, DOL published an Interim Final Rule (IFR) governing its responsibilities under EEOICPA. 70 Fed. Reg. 33,590 (2005). The publication of the IFR was compelled by the major amendments to EEOICPA Congress enacted in 2004. DOL invited interested parties to submit written comments and advice within 60 days of publication of the IFR. In response, DOL received 533 timely comments, almost all of which addressed the issue of eligibility for survivor benefits under Part E of EEOICPA. DOL addressed all the issues raised by these comments in the Proposed Final Rule which it forwarded to the Office of Management and Budget on June 23, 2006.



Energy Employees Occupational Illness Compensation Program Act	Part B		Part E ¹	
	FY 2005	FY 2006	FY 2005	FY 2006
Number of Employees (FTE staffing Used)	245	251	27	188
Administrative Expenditures ²	\$ 60.5 M	\$ 44.0 M	\$ 34.7 M	\$ 51.8 M
Claims Created	9,972	7,908	39,830	16,556
Recommended Decisions (Total Claims) Covered Applications ³	13,668 N/A	14,191 13,207	2,792 N/A	29,346 16,458
Final Decisions (Claims) Covered Applications ³	11,709 N/A	13,199 12,169	2,105 N/A	20,592 9,777
Number of Claims Approved (Final)	4,319	6,103	2,042	6,357
Total Lump Sum Compensation Payments ⁴	\$ 325.8 M	\$ 462.2 M	\$ 194.3 M	\$ 280.3 M
Number of Medical Bill Payments	70,251	97,103	328	585
Total Medical Payments ⁵	\$ 32.8 M	\$ 40.8 M	\$ 0.02 M	\$ 0.8 M

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

² Includes Department of Labor expenditures only; Part B excludes funds apportioned to the Department of Health and Human Services for that agency's responsibilities under EEOICPA (\$47.3 million in FY 2005 and \$59.8 million in FY 2006, respectively), while Part E excludes funding for the Ombudsman office (\$0.2 million in FY 2005 and \$0.5 million in FY 2006, respectively).

³ FY 2006 is the first year that covered versus non-covered applications were tracked.

⁴ Excludes payments made by DOL for Department of Justice (DOJ) Radiation Exposure Compensation Act (RECA) Section 5 claims. DOL serves as a pass through and utilizes the compensation fund established under EEOICPA for DOJ's payments of \$100,000 to qualifying Section 5 RECA claimants as provided for in 42 U.S.C. § 7384u(d). These payments totaled \$57.4 million in FY 2005 and \$78.8 million in FY 2006, respectively.

⁵ Part B medical payments represent payments made for cases accepted under both Part B and Part E. Part E medical payments represent payments made for Part E only.

Appendix

A. FECA Tables A1–A4	56
B. Black Lung Tables B1–B6	60
C. LHWCA Tables C1–C5	66
D. EEOICPA Tables D1–D5	71

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 A1

Federal Employees' Compensation Rolls

FY 1997—FY 2006
(Cases at End-of-Year)

Roll Type	Fiscal Year									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total Periodic Roll	55,484	56,159	54,897	54,709	56,133	56,751	58,621	57,827	60,709	55,433
Long-Term Disability	49,319	50,105	48,957	48,870	50,409	51,092	53,099	52,377	55,257	49,910
Death	6,165	6,054	5,940	5,839	5,724	5,659	5,522	5,450	5,452	5,523

Table A2

**Federal Employees' Compensation Program
Summary of Claims Activity**

FY 1997—FY 2006

Claim Activity	Fiscal Year									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Incoming Cases										
Cases Created	173,319	165,135	166,544	174,471	165,915	158,118	168,174	162,965	151,690	139,874
Traumatic	146,489	138,975	140,383	145,915	137,877	132,250	142,325	138,521	129,427	119,082
No Lost Time	78,642	75,321	83,472	91,620	86,402	80,439	84,368	80,018	74,071	67,127
Lost Time	67,847	63,654	56,911	54,295	51,475	51,811	57,957	58,503	55,356	51,955
Occupational Disease	26,680	25,954	25,999	28,406	27,869	25,739	25,747	24,320	22,114	20,592
Fatal Cases	150	206	162	150	169	129	102	124	149	200
Wage-Loss Claims Initiated	19,181	19,315	19,759	21,899	23,386	23,193	24,245	24,189	21,455	19,819
Hearings and Review										
Total Requests for Hearing	7,642	7,496	7,164	6,992	6,875	6,820	6,751	8,132	6,757	6,241
Total Hearing Dispositions	7,525	8,087	7,926	7,418	6,599	6,272	6,743	7,682	6,961	7,424

Table A3

Federal Employees' Compensation Program Obligations

FY 1997—FY 2006

(\$ thousands)

Type of Obligation	Fiscal Year									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total Obligations	\$1,968,256	\$2,024,494	\$2,076,475	\$2,170,247	\$2,308,595	\$2,418,364	\$2,475,108	\$2,568,390	\$2,602,815	\$2,553,930
Total Benefits	1,887,363	1,944,259	1,989,050	2,078,715	2,199,276	2,307,942	2,345,472	2,434,609	2,476,479	2,418,796
Compensation Benefits	1,314,603	1,343,879	1,370,206	1,403,154	1,453,740	1,509,275	1,556,845	1,600,501	1,664,405	1,621,357
Medical Benefits	450,206	476,167	492,835	548,596	617,414	667,797	658,121	703,571	672,006	668,205
Survivor Benefits	122,554	124,213	126,009	126,965	128,122	130,870	130,506	130,537	140,068	129,234
Total Administrative Expenditures	80,893	80,235	87,425	91,532	109,319	110,422	129,636	133,781	126,336	135,134
Salaries and Expenses	67,303	69,207	67,567	70,634	78,971	81,210	86,358	86,253	86,811	88,435
Fair Share	13,590	11,028	19,858	20,898	30,348	29,212	43,278	47,528	39,525	46,699

Table A4

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

CBY 1997—CBY 2006

(\$ thousands)

Federal Agency	Chargeback Year ¹									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total Costs	\$1,833,926	\$1,887,980	\$1,908,256	\$2,024,634	\$2,129,097	\$2,219,448	\$2,323,288	\$2,339,782	\$2,334,194	\$2,440,711
U.S. Postal Service	551,142	577,159	594,503	666,310	720,518	785,199	846,876	852,945	840,141	884,078
Department of the Navy	247,488	243,938	240,492	241,585	246,881	248,250	245,461	245,145	237,791	244,318
Department of the Army	159,781	162,152	163,127	166,989	169,219	174,832	181,298	177,250	174,660	180,248
Department of Veterans Affairs	136,607	140,118	137,865	143,221	145,909	151,612	157,315	155,391	156,170	164,091
Department of Homeland Security	N/A	N/A	N/A	N/A	N/A	N/A	83,975	121,089	138,342	156,734
Department of the Air Force	117,242	124,302	123,349	128,134	134,106	132,538	135,509	129,229	124,516	126,663
Department of Transportation	89,369	95,823	97,155	96,936	99,556	101,716	94,682	92,659	92,687	92,830
Department of Justice	63,878	67,875	76,319	83,873	91,197	95,620	66,131	74,011	80,090	89,156
Department of Agriculture	59,230	60,348	59,851	64,882	66,750	69,563	72,312	69,245	68,681	70,185
Department of Defense	61,360	62,729	63,563	64,797	64,761	63,888	65,429	63,816	62,996	65,460
All Other Agencies	347,829	353,536	352,033	367,907	390,201	396,230	374,299	359,003	358,120	366,948

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

Table B1

**Part C Black Lung Claims Adjudication
at the Initial Level**

FY 2006

Type of Claim	PDO's Issued ¹	Approval Rate
Trust Fund	782	15.09%
Approved	118	
Denied	664	
Responsible Operator	3,966	13.14%
Approved	521	
Denied	3,445	
Total Findings	4,748	13.46%
Total Approved	639	
Total Denied	4,109	

¹ PDO is "Proposed Decision and Order".

Table B2

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

FY 2006

State	Total Claims Received ¹	MBO Claims ²	In Payment ³	Total Benefits (\$ 000) ⁴
Alabama	33,755	62	977	\$7,599
Alaska	149	0	9	70
Arizona	2,035	5	136	1,058
Arkansas	3,819	14	185	1,439
California	6,459	12	264	2,053
Colorado	7,025	18	438	3,407
Connecticut	1,000	2	80	622
Delaware	771	2	60	467
District of Columbia	284	0	15	117
Florida	11,872	80	819	6,370
Georgia	1,641	9	169	1,314
Hawaii	16	0	1	8
Idaho	247	0	17	132
Illinois	31,244	64	1,212	9,426
Indiana	17,836	41	787	6,121
Iowa	5,134	5	247	1,921
Kansas	2,172	1	65	506
Kentucky	91,091	882	4,925	38,305
Louisiana	349	1	18	140
Maine	44	0	3	23
Maryland	6,644	22	376	2,924
Massachusetts	237	0	21	163
Michigan	10,478	17	429	3,337
Minnesota	146	0	8	62
Mississippi	363	2	29	226
Missouri	4,631	5	197	1,532
Montana	854	2	36	280
Nebraska	128	0	8	62
Nevada	424	1	40	311
New Hampshire	27	0	7	54
New Jersey	4,290	11	278	2,162
New Mexico	2,394	3	121	941
New York	4,014	10	212	1,649
North Carolina	3,446	28	335	2,605
North Dakota	159	0	6	47
Ohio	53,621	145	2,808	21,839
Oklahoma	3,784	15	154	1,198
Oregon	628	0	34	264
Pennsylvania	136,475	743	10,721	83,384
Rhode Island	40	0	3	23
South Carolina	917	9	121	941
South Dakota	50	0	6	47
Tennessee	20,957	145	1,098	8,540
Texas	1,717	4	125	972
Utah	4,100	17	274	2,131
Vermont	49	0	6	47
Virginia	43,363	511	3,584	27,875
Washington	1,590	3	76	591
West Virginia	110,329	948	7,730	60,121
Wisconsin	449	1	35	272
Wyoming	2,602	1	156	1,213
All Other	449	1	20	156
Total	636,298	3,842	39,481	\$307,067

¹ All filings since July 1, 1973, including terminated and nonapproved claims.

² Active Medical Benefits Only (MBO) claims as of 9/30/06.

³ Active claims in payment status, excluding MBO claims, as of 9/30/06.

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 B3

Part C Black Lung Claims, by Class of BeneficiaryFY 1997—FY 2006¹

Class of Beneficiary	Number of Beneficiaries ²									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Primary Beneficiaries:										
Miners	29,839	27,340	24,838	22,568	18,248	16,395	14,773	13,398	12,012	10,857
Widows	42,468	41,585	40,517	39,053	35,660	34,236	32,615	30,810	29,110	27,366
Others	1,444	1,476	1,508	1,497	1,467	1,221	1,238	1,247	1,248	1,258
<i>Total Primary Beneficiaries</i>	73,751	70,401	66,863	63,118	55,375	51,852	48,626	45,455	42,370	39,481
Dependents of Primary Beneficiaries:										
Dependents of Miners	24,599	22,158	19,953	17,978	13,924	12,432	11,131	10,020	9,004	8,088
Dependents of Widows	1,491	1,417	1,384	1,306	1,123	1,077	1,052	1,006	944	874
Dependents of Others	511	512	516	508	108	386	353	238	213	146
<i>Total Dependents</i>	26,601	24,087	21,853	19,792	15,155	13,895	12,536	11,264	10,161	9,108
Total, All Beneficiaries	100,352	94,488	88,716	82,910	70,530	65,747	61,162	56,719	52,531	48,589

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 B4

Department of Labor Part C Black Lung Benefits Program Obligations

FY 1997—FY 2006

(\$ thousands)

Type of Obligation	Fiscal Year									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total Obligations	\$1,004,672	\$999,822	\$1,005,246	\$1,013,593	\$1,016,994	\$1,034,096	\$1,046,303	\$1,053,246	\$1,061,698	\$1,060,006
Total Benefits ¹	487,910	459,061	439,442	422,656	396,928	384,234	370,389	346,864	329,933	307,067
Income Benefits ²	392,546	376,985	363,871	350,266	336,813	320,039	307,371	292,555	279,965	265,365
Medical Benefits ³	95,363	82,076	75,571	72,390	60,116	64,196	63,018	54,309	49,968	41,702
Administrative Costs ⁴	46,128	46,035	50,788	49,820	52,252	54,273	55,332	55,803	56,872	57,975
Interest Charges ⁵	470,635	494,726	515,016	541,117	567,814	595,589	620,582	650,579	674,894	694,964
Repayable Advances ⁶	375,000	370,000	402,000	490,000	505,000	465,000	525,000	497,000	446,000	445,000
Cumulative Debt⁷	\$5,486,557	\$5,856,557	\$6,258,557	\$6,748,557	\$7,253,557	\$7,718,557	\$8,243,557	\$8,740,557	\$9,186,557	\$9,631,557

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 B5

Monthly Part C Black Lung Benefit Rates

1973—2006

Period	Benefit Rates by Type of Beneficiary			
	Claimant	Claimant and 1 Dependent	Claimant and 2 Dependents	Claimant and 3 or More Dependents
7/1/73-9/30/73	\$169.80	\$254.70	\$297.10	\$339.50
10/1/73-9/30/74	177.60	266.40	310.80	355.20
10/1/74-9/30/75	187.40	281.10	328.00	374.80
10/1/75-9/30/76	196.80	295.20	344.40	393.50
10/1/76-9/30/77	205.40	308.10	359.50	410.80
10/1/77-9/30/78	219.90	329.80	384.80	439.70
10/1/78-9/30/79	232.00	348.00	405.90	463.90
10/1/79-9/30/80	254.00	381.00	444.50	508.00
10/1/80-9/30/81	279.80	419.60	489.60	559.50
10/1/81-9/30/82	293.20	439.80	513.10	586.40
10/1/82-12/31/83	304.90	457.30	533.60	609.80
1/1/84-12/31/84 ¹	317.10	475.60	554.90	634.20
1/1/85-12/31/86	328.20	492.30	574.30	656.40
1/1/87-12/31/87	338.00	507.00	591.50	676.00
1/1/88-12/31/88	344.80	517.20	603.40	689.60
1/1/89-12/31/89	358.90	538.30	628.10	717.80
1/1/90-12/31/90	371.80	557.70	650.60	743.60
1/1/91-12/31/91	387.10	580.60	677.40	774.10
1/1/92-12/31/92	403.30	605.00	705.80	806.60
1/1/93-12/31/93	418.20	627.30	731.90	836.40
1/1/94-12/31/94	427.40	641.10	748.00	854.80
1/1/95-12/31/95	427.40	641.10	748.00	854.80
1/1/96-12/31/96	435.10	652.70	761.50	870.20
1/1/97-12/31/97	445.10	667.70	779.00	890.20
1/1/98-12/31/98	455.40	683.10	796.90	910.70
1/1/99-12/31/99	469.50	704.30	821.60	939.00
1/1/00-12/31/00	487.40	731.00	852.80	974.70
1/1/01-12/31/01	500.50	750.80	875.90	1,001.00
1/1/02-12/31/02	518.50	777.80	907.40	1,037.00
1/1/03-12/31/03	534.60	801.90	935.50	1,069.20
1/1/04-12/31/04	549.00	823.50	960.80	1,098.00
1/1/05-12/31/05	562.80	844.10	984.80	1,125.50
1/1/06-12/31/06	574.60	861.80	1,005.50	1,149.10

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 (1/84 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 B6

Funding and Disbursements of the Black Lung Disability Trust Fund

FY 2006

(\$ thousands)

Month	Funding				Disbursements						
	Coal Excise Tax Revenue	Treasury Advances	Reimburse ¹	Total	Income Benefits ²	Medical Benefits Diagnostic	Treatment ³	Total Benefits	Admin. Costs	Interest on Advances	Total
October 2005	\$10,181	\$0	\$292	\$10,473	\$22,383	\$234	\$2,765	\$25,382	\$4,202	\$0	\$29,585
November 2005	57,370	0	265	57,635	22,457	412	3,568	26,437	3,398	0	29,835
December 2005	53,499	0	378	53,877	22,523	344	2,778	25,645	3,612	0	29,257
January 2006	50,321	0	282	50,603	22,010	276	2,289	24,575	5,162	0	29,738
February 2006	51,829	0	185	52,014	22,563	294	3,371	26,229	5,233	0	31,461
March 2006	57,942	0	437	58,379	22,430	356	4,181	26,967	5,194	0	32,161
April 2006	55,426	0	1,303	56,729	22,038	275	3,431	25,744	5,185	0	30,929
May 2006	50,392	0	696	51,088	22,181	387	4,208	26,776	5,186	0	31,961
June 2006	42,361	0	386	42,747	21,882	279	2,535	24,696	5,182	0	29,878
July 2006	51,702	0	190	51,892	21,708	245	2,691	24,643	5,179	0	29,823
August 2006	47,582	0	347	47,929	21,773	324	3,520	25,617	5,183	0	30,800
September 2006	78,782	445,000	202	523,984	21,417	265	2,673	24,356	5,259	694,964	724,579
Totals	\$607,387	\$445,000	\$4,963	\$1,057,350	\$265,365	\$3,693	\$38,009	\$307,067	\$57,975	\$694,964	\$1,060,006

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 C1

Total Industry Compensation and Benefit Payments Under LHWCA¹

CY 1996—CY 2005²

(\$ thousands)

Payments By:	Calendar Year									
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Self-Insured Employers	\$272,688	\$263,255	\$261,559	\$283,991	\$278,952	\$307,708	\$310,940	\$309,843	\$322,520	\$325,694
Insurance Carriers	226,592	219,352	238,464	232,778	249,671	236,726	246,603	262,753	278,887	325,027
Total Payments	\$499,280	\$482,607	\$500,023	\$516,769	\$528,623	\$544,434	\$557,543	\$572,596	\$601,407	\$650,721

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 C2

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

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

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 C3

LHWCA and DCCA Special Funds' Expenditures¹

FY 1997—FY 2006

(\$ 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	
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
2004	135,247	122,358	2,081	4,990	5,818	4,694	10,920	9,867	645	0	408	544
2005	134,549	122,418	1,973	5,002	5,156	4,588	10,604	9,767	597	0	240	527
2006	133,270	123,412	1,811	2,749	5,298	4,908	10,246	9,418	588	0	240	621

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

² Section 8(f) payments to employees who sustain second injuries that, superimposed on a pre-existing injury, 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 2006. Excluded are disbursements from proceeds of employer securities redeemed under section 32 of the Act. These monies are exclusively for payment of compensation and medical benefits to employees of companies in default.

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

Table C4

LHWCA and DCCA Special Funds' Assessments¹

CY 1997—CY 2006

(\$ 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
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
2004	137,000	368,671	CY 2003	11,500	4,286	CY 2003
2005	135,000	388,258	CY 2004	11,500	5,402	CY 2004
2006	125,000	418,714	CY 2005	10,500	4,277	CY 2005

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 C5

Summary of Case Processing Activities Under LHWCA¹

FY 1997—FY 2006

Adjudication Level and Case Status	Fiscal Year									
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
District Offices										
Pending Inventory of Cases	7,759	6,974	9,006	8,675	6,489	7,391	5,495	6,051	6,375	6,338
OALJ										
Carryover from Previous FY	4,909	3,849 ⁴	3,862	3,668	3,562	3,388	2,980	2,517	2,355	2,318
New Cases	3,520 ²	3,579	3,462	3,566	3,500	3,276	3,036	2,926	2,763	2,413
Total Docket	8,429	7,428	7,324	7,234	7,062	6,664	6,016	5,443	5,118	4,731
(Dispositions)	3,557	3,566	3,656	3,672	3,674	3,529	3,499	3,088	2,800	2,747
Pending Inventory	4,872	3,862 ⁵	3,668	3,562	3,388	2,980 ⁸	2,517	2,355	2,318	1,984
BRB										
Carryover from Previous FY	399	348	318	326	295	248	208	267	222	211
New Cases	457	419	421	423	317	260	332	297	288	248
Total Docket	856	767	739	749	612	508	540	564	510	459
(Dispositions)	539	464	438	467	384	319	282	355	304	288
Pending Inventory	348 ³	318 ⁶	326 ⁷	295 ⁷	248 ⁷	208 ⁷	267 ⁷	222 ⁷	211 ⁷	182⁷

¹Beginning in FY 1988, DCAA 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.

²Excludes 116 new "33(g)" cases and 1,496 "33(g)" cases remanded from BRB being held in abeyance.

³Number adjusted by BRB to account for misfiled, duplicate, or reinstated appeals.

⁴The 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.

⁵The 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.

⁶Data 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.

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

⁸Includes dispositions of Boone 33(g) cases.

Table D1 Part B

Status of All EEOICPA Applications at the End of FY 2006¹

Case Status/Claims Activity	Case ²	Claim ³
Total Applications Received-Program Inception Through 9/30/2006	53,920	77,053
Total Covered Applications Received-Program Inception Through 9/30/2006	40,976	62,187
Final Decisions Completed by Final Adjudication Branch (FAB) ⁴	28,453	39,748
Final Approved	15,443	22,585
Final Denied	13,010	17,163
Recommended Decisions by District Offices ⁵	1,698	2,445
Recommended Decisions Only, to Approve	412	662
Recommended Decisions Only, to Deny	1,286	1,783
Completed Initial Processing- Referred to NIOSH	7,627	11,091
Pending Initial Processing In District Office ⁶	3,198	8,903
Lump Sum Compenations	14,141	21,131
Total Payment Amounts		\$1,697,410,094

¹Statistics show the status of all applications filed from program inception through September 30, 2006.

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.

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

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

⁶Includes remanded cases now in development and closed cases.

Table D1 Part E

Status of All EEOICPA Applications at the End of FY 2006¹

Case Status/Claims Activity	Case ²	Claim ³
Total Received-Program Inception Through 9/30/2006	41,897	56,175
Total Covered Applications Received-Program Inception Through 9/30/2006	36,563	43,706
Final Decisions Completed by Final Adjudication Branch (FAB) ⁴	9,941	10,014
Final Approved	7,432	7,609
Final Denied	2,509	2,405
Recommended Decisions by District Offices ⁵	2,810	2,914
Recommended Decisions Only, to Approve	683	712
Recommended Decisions Only, to Deny	2,127	2,202
Completed Initial Processing - Referred to NIOSH	759	809
Pending Initial Processing In District Office ⁶	23,053	29,969
Compensation Payments (Unique Cases and Claims)	3,714	3,866
Total Compensation Payment Amts.		\$473,687,170
Lump Sum Allocations (Unique Cases and Claims)	3,578	3,738
Total Lump Sum Payment Amts.		\$445,208,340
Wage Loss Allocations (Unique Cases and Claims)	435	516
Total Wage Loss Payment Amts.		\$15,104,214
Impairment Allocations (Unique Cases and Claims)	124	124
Total Impairment Payment Amts.		\$13,374,616

¹ Statistics show the status from program inception through September 30, 2006.

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 D2 Part B

**Processing Activity
During FY 2006 on All EEOICPA Cases/Claims¹**

Processing Activity	Case ²	Claim ³
Total Cases/Claims Received-FY 2006	5,472	7,908
Total Cases/Claims (Covered Applications) Received-FY 2006	5,117	7,528
Final Decisions by FAB Offices in FY 2006	7,546 ⁴	12,169
Final Approved	3,593	6,103
Final Denied	3,953	6,066
Modification Orders in FY 2006	130	147
Recommended Decisions by District Offices in FY 2006	8,107	13,207
Recommended Decisions Only, to Approve	3,749	6,481
Recommended Decisions Only, to Deny	4,358	6,726
Referrals to NIOSH in FY 2006	3,759	5,526
Lump Sum Compensation Payments in FY 2006	see claim statistics	5,215
Remands	537	940

¹ Activity statistics capture actions made during FY 2006 only, therefore the number of activities reported do not add up to the total number of cases/claims received during FY 2006. (Many activities recorded occurred on cases/claims received prior to FY 2006).

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 2006.

Table D2 Part E

**Processing Activity
During FY 2006 on All EEOICPA Cases/Claims¹**

Processing Activity	Case ²	Claim ³
Total Cases/Claims Received-FY 2006	10,354	16,556
Total Cases/Claims (Covered Applications) Received - FY 2006	7,708	10,335
Final Decisions by FAB Offices in FY 2006	7,837 ⁴	9,777
Final Approved	5,493	6,357
Final Denied	2,344	3,420
Modification Orders in FY 2006	21	25
Recommended Decisions by District Offices in FY 2006	14,028	16,458
Recommended Decisions Only, to Approve	6,343	7,483
Recommended Decisions Only, to Deny	7,685	8,975
Referrals to NIOSH in FY 2006	779	824
Compensation Payments in FY 2006 (Unique Cases and Claims)	2,218	2,362
Total Compensation Payment Amts.		\$280,330,416
Lump Sum Allocations (Unique Cases and Claims)	2,057	2,200
Total Compensation Payment Amts.		\$255,697,416
Wage Loss Allocations (Unique Cases and Claims)	322	396
Total Wage Loss Payment Amts.		\$11,420,884
Impairment Allocations (Unique Cases and Claims)	123	123
Total Impairment Payment Amts.		\$13,212,116
Remands	564	710

¹ Activity statistics capture actions made during FY 2006 only, therefore the number of activities reported do not add up to the total number of cases/claims received during FY 2006. (Many activities recorded occurred on cases/claims received prior to FY 2006).

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 2006.

Table D3 Part B

**EEOICPA Cases With Approved Decisions and Payments
by Category, Program Inception Through September 30, 2006**

Category	Number of Approved Cases ¹	Percentage of Total Final Approvals	Number of Paid Claimants ¹	Total Compensation Paid (\$ thousands)	Percentage of Total Compensation Paid
Radiation Exposure Comp. Act (RECA) ²	4,255	27.6%	6,733	\$213,953	12.7%
Special Exposure Cohort Cancer (CN)	4,876	31.6%	7,378	718,487	42.6%
Dose Reconstructed Cancer (CN)	3,469	22.5%	4,723	502,221	29.8%
Beryllium Disease (CBD) ³	1,551	10.1%	2,015	228,345	13.5%
Beryllium Sensitivity-Only (BS)	1,087	7.1%	N/A	N/A	N/A
Silicosis (CS)	64	0.4%	73	9,470	0.6%
Multiple Conditions ⁴	105	0.7%	112	14,833	0.9%
Total	15,407	100.0%	21,034	\$1,687,309⁵	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 9/30/2006, but payments were not issued.

² RECA cases are not counted in any other category of this table.

³ Cases approved for both CBD and BS are counted in the CBD category, only.

⁴ 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.

⁵ Total does not include 71 cases that could not be attributed to the designated categories.

Table D4 Part B

EEOICPA Covered and Non-Covered Application Cases With Final Decision To Deny, Program Inception Through September 30, 2006

Reason for Denial	Number of Cases ¹
Employee Did Not Work at a Covered DOE Facility, Atomic Weapons Employer, or Beryllium Vendor During a Covered Time Period ²	3,100
Survivor Not an Eligible Beneficiary	513
Claimed Condition Not Covered Under Part B of EEOICPA ²	9,774
Dose Reconstruction Reveals the Probability That the Cancer is Related to Employment is Less Than 50 Percent	8,593
Medical Evidence is Insufficient to Establish Entitlement	3,724
Total	25,704

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

² Non-covered applications.

Table D4 Part E

EEOICPA Covered and Non-Covered Application Cases With Final Decision To Deny, Program Inception Through September 30, 2006

Reason for Denial	Number of Cases ¹
Employee Did Not Work at a Covered DOE Facility, Atomic Weapons Employer, or Beryllium Vendor During a Covered Time Period ²	1,093
Survivor Not an Eligible Beneficiary ²	3,620
Dose Reconstruction Reveals the Probability That the Cancer is Related to Employment is Less Than 50 Percent	189
Medical Evidence is Insufficient to Establish Entitlement	2,140
Total	7,042

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

² Non-covered applications.

Table D5 Part B

Most Prevalent Non-Covered Medical Conditions, EEOIC Program Inception Through September 30, 2006

Non-Covered Medical Condition	Percentage of All Denials For This Condition ¹
Other Lung Conditions	22%
Heart Condition/Failure/Attack/Hypertension	10
Chronic Obstructive Pulmonary Disease & Emphysema	7
Asbestosis	6
Renal Condition or Disorder (Kidney Failure, Kidney Stones)	5
Hearing Loss	3
Benign Tumors, Polyps, Skin Spots	3
Diabetes	2
Neurological Disorder	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%) or Other (Not Listed)	27
No Condition Reported on Claim Form or Blank Condition Type	8

¹ Based on 9,774 cases that were denied because claimed condition was not covered under Part B of EEOICPA. These figures exclude cases that have a "covered" condition whereas Table D-4 Part B includes these cases.

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

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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/owcp/dfec)
Douglas C. Fitzgerald, Director
Edward Duncan, Deputy Director

Division of Coal Mine Workers' Compensation
(www.dol.gov/esa/owcp/dcmwc)
James L. DeMarce, Director
Steven D. Breeskin, Deputy Director

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

Division of Energy Employees Occupational Illness Compensation
(www.dol.gov/esa/owcp/energy)
Rachel P. Leiton, Director
Christy A. Long, 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)

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Robert Sullivan Regional Director
U.S. Department of Labor, ESA/OWCP
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646-264-3100

New York FECA District Office
Zev Sapir, District Director
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New York Longshore District Office
Richard V. Robiloti, District Director
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Boston FECA District Office
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U.S. Department of Labor, ESA/OWCP/DFEC
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Region III—Philadelphia
(Delaware, District of Columbia, Maryland, Pennsylvania,
Virginia, West Virginia)

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Norfolk Longshore District Office
Theresa Magyar, District Director
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Johnstown Black Lung District Office
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Mine Safety & Health Academy, Rm. G-100
139 Airport Road
Beckley, WV 25802
304-252-9514

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

U.S. Department of Labor, ESA/OWCP/DCMWC
Elkins Social Security Office
Jennings-Randolph Building
300 3rd Street, Suite 325
Elkins, WV 26241
304-636-4747

U.S. Department of Labor, ESA/OWCP/DCMWC
523 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
604 Cheat Road
Morgantown, WV 26505
304-291-4277

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

Region IV—Southeast

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

Regional Office

Richard A. Brettell, Regional Director
U.S. Department of Labor, ESA/OWCP
400 West Bay Street, Room 943
Jacksonville, FL 32202
904-357-4776

Jacksonville FECA District Office

Magdalena Fernandez, District Director
U.S. Department of Labor, 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, Box 28
Jacksonville, FL 32202
904-357-4788

Jacksonville Energy District Office

James Bibeault, 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)

Pikeville Black Lung District Office

Roger Belcher, District Director
U.S. Department of Labor, ESA/OWCP/DCMWC
164 Main Street, Suite 508
Pikeville, KY 41501-1182
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
859-497-8501 (Toll-Free 1-800-366-4628)

EEOICPA Resource Center Contract Facilities:**(Paducah Site)**

Jim Monahan, Office Manager
Barkley Center, Unit 125
125 Memorial Drive
Paducah, KY 42001
270-534-0599 (Toll-Free 1-866-534-0599)
paducah.center@rroho.com

(Savannah River Site)

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

(Oak Ridge Site)

Susan Adkisson, 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@rroho.gov

Region V/VII—Midwest

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

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

Karen Spence, 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
1001 Lakeside Avenue, Suite 350
Cleveland, OH 44114
216-802-1300 (Toll-Free 1-888-859-7211)

Columbus Black Lung District Office

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

Kansas City FECA District Office

Lois Maxwell, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
Two Pershing Square Bldg.
2300 Main Street, Suite 1090
Kansas City, MO 64108-2416
816-502-0301

EEOICPA Resource Center Contract Facility:**(Portsmouth Site)**

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

Region VI/VIII—Southwest

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

Regional Office (Dallas)

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

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

New Orleans Longshore District Office

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

Denver FECA District Office

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

Denver Black Lung District Office

Deborah Brunger, Acting District Director
U.S. Department of Labor,
ESA/OWCP/DCMWC
1999 Broadway, Suite 690
Denver, CO 80202
720-264-3100 (Toll-Free 1-800-366-4612)

Denver Energy District Office

Janet Kapsin, District Director
U.S. Department of Labor, ESA/OWCP/DEEOIC
1999 Broadway, Suite 1120
Denver, CO 80202-5711
720-264-3060 (Toll-Free 1-888-805-3389)

EEOICPA Resource Center Contract Facilities:**(Rocky Flats Site)**

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

(Espanola Site)

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

Region IX/X—Pacific

(Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Washington)

Regional Office (San Francisco)

Sharon Tyler, Regional Director
U.S. Department of Labor, ESA/OWCP
90 Seventh Street, Suite 15-100
San Francisco, CA 94103-6716
415-848-6880

San Francisco FECA District Office

Andy Tharp, District Director
U.S. Department of Labor, ESA/OWCP/DFEC
90 Seventh Street, Suite 15-300
San Francisco, CA 94103-6716
415-625-7500

San Francisco Longshore District Office

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

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

Joyce Vail, 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 Contract Facilities:**(Idaho Falls Site)**

Steve Beehler, Office Manager
1820 East 17th Street, Suite 375
Idaho Falls, ID 83404
208-523-0158 (Toll-Free 1-800-861-8608)
idaho.center@rrohio.com

(Las Vegas Site)

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

(Hanford Site)

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

(California Site)

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

National Operations Office

(District of Columbia, Maryland, Virginia)

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

