

**FY 2013**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**MINE SAFETY AND HEALTH ADMINISTRATION**



# MINE SAFETY AND HEALTH ADMINISTRATION

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# MINE SAFETY AND HEALTH ADMINISTRATION

## APPROPRIATION LANGUAGE

### SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [\$374,000,000] \$371,896,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to \$2,000,000 for mine rescue and recovery activities; in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; [and,] in addition, the Mine Safety and Health Administration may retain up to [\$1,499,000] \$2,499,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities, *notwithstanding 31 U.S.C. 3302*; and, in addition, *the Mine Safety and Health Administration is authorized to collect and retain fees for services related to the analysis of rock dust samples, and may utilize such sums to administer such activities, notwithstanding 31 U.S.C. 3302*[the Secretary may transfer from amounts provided under this heading up to \$3,000,000 to "Departmental Management" for activities related to the Office of the Solicitor's caseload before the Federal Mine Safety and Health Review Commission]; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; [and] any funds available to the Department of Labor may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster; *and the Secretary may reallocate among the items funded under this heading up to \$3,000,000 to support inspections or*

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*investigations pursuant to section 103 of the Federal Mine Safety and Health Act of 1977.*  
(Department of Labor Appropriations Act, 2012)

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## EXPLANATION OF LANGUAGE CHANGE

*“...in addition, the Mine Safety and Health Administration may retain up to \$2,499,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities, notwithstanding 31 U.S.C. 3302;”*

This change represents an increase in the retention of fees schedule to match MSHA’s costs associated with the testing of equipment. In FY 2012, the statutory limit was \$1,499,000.

*“... in addition, the Mine Safety and Health Administration is authorized to collect and retain fees for services related to the analysis of rock dust samples, and may utilize such sums to administer such activities, notwithstanding 31 U.S.C. 3302;”*

This language authorizes MSHA to charge and retain a fee for the analysis of combustible rock dust samples for determination of compliance. Full implementation of this authority will require rulemaking and the proceeds from the fees are unlikely to be available in the same year as authorization.

~~DELETED: “... the Secretary may transfer from amounts provided under this heading up to \$3,000,000 to “Departmental Management” for activities related to the Office of the Solicitor’s caseload before the Federal Mine Safety and Health Review Commission;”~~

In FY 2012, Congress appropriated up to \$3,000,000 of funding to be transferred to the Departmental Management account for activities related to the backlog of cases before the Federal Mine Safety and Health Review Commission. In FY 2013, the Department is requesting that funds for these activities be appropriated directly to the Departmental Management account.

*“... and the Secretary may reallocate among the items funded under this heading up to \$3,000,000 to support inspections or investigations pursuant to section 103 of the Federal Mine Safety and Health Act of 1977.”*

This authority provides MSHA with additional flexibility to internally reallocate funding as necessary to ensure the enforcement programs have the necessary resources to effectively conduct mandated inspections or investigations.

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## ANALYSIS OF APPROPRIATION LANGUAGE

*"...including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work..."*

This authority has been included in the language of either the Bureau of Mines, the Department of the Interior, the Mining Enforcement and Safety Administration or the Department of Labor since 1932 and allows the Secretary to further increase safety and health through the bestowal of trophies and certificates for accomplishments in the area of mine rescue and first-aid work.

*"... and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster..."*

In the instance of a mine disaster, MSHA provides staff, technical expertise, and specialized equipment in assisting rescue operations at mine sites. Funds are not specifically requested to cover the major costs associated with mine disaster recovery operations. This provision provides the Secretary authority to authorize the use of funds in the event that assistance costs exceed MSHA's funding capacity.

*"... authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization..."*

The Joseph A. Holmes Safety Association, a nonprofit organization, began in 1916 to promote health and safety in the mining industry and consists of representatives from Federal and State Governments, Mining Organizations and Labor. The Association's objectives are to prevent fatalities and injuries and to improve health and safety among officials and employees in all phases of mining.

## MINE SAFETY AND HEALTH ADMINISTRATION

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	FY 2011 Enacted		FY 2012 Enacted		FY 2013 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
<b>A. Appropriation</b>	<b>2,328</b>	<b>\$363,843</b>	<b>2,365</b>	<b>\$374,000</b>	<b>2,336</b>	<b>\$371,896</b>
Reduction pursuant to P.L. 112-10 for FY 2011	0	-\$728	0	\$0	0	\$0
Reduction pursuant to P.L. 112-74 for FY 2012	0	\$0	0	-\$707	0	\$0
<i>Subtotal Appropriation</i>	2,328	\$363,115	2,365	\$373,293	2,336	\$371,896
Offsetting Collections From: Reimbursements		\$2,175		\$2,249		\$4,849
Nonexpenditure Transfer from DM to Restore Rescission	0	\$728	0	\$0	0	\$0
Nonexpenditure Transfer to DM	0	-\$2,000	0	-\$770	0	\$0
Unobligated Balance Carried Over for FMSHRC Backlog Reduction	15	\$5,644	0	\$0	0	\$0
<b>B. Gross Budget Authority</b>	<b>2,343</b>	<b>\$369,662</b>	<b>2,365</b>	<b>\$375,479</b>	<b>2,336</b>	<b>\$376,745</b>
Offsetting Collections to: Reimbursements		-\$2,175		-\$2,249		-\$4,849
Nonexpenditure Transfer from DM to Restore Rescission	0	-\$728	0	\$0	0	\$0
Nonexpenditure Transfer to DM	0	\$2,000	0	\$770	0	\$0
Unobligated Balance Carried Over for FMSHRC Backlog Reduction	-15	-\$5,644	0	\$0	0	\$0
<b>C. Budget Authority Before Committee</b>	<b>2,328</b>	<b>\$363,115</b>	<b>2,365</b>	<b>\$374,000</b>	<b>2,336</b>	<b>\$371,896</b>
Offsetting Collections From: Reimbursements		\$1,357		\$2,249		\$4,849
Nonexpenditure Transfer from DM to Restore Rescission	0	\$728	0	\$0	0	\$0
Nonexpenditure Transfer to DM	0	-\$2,000	0	-\$770	0	\$0
Unobligated Balance Carried Over for FMSHRC Backlog Reduction	15	\$5,644	0	\$0	0	\$0
<b>D. Total Budgetary Resources</b>	<b>2,343</b>	<b>\$368,844</b>	<b>2,365</b>	<b>\$376,249</b>	<b>2,336</b>	<b>\$376,745</b>
Unobligated Balance Expiring	-35	-\$438	0	\$0	0	\$0
<b>E. Total, Estimated Obligations</b>	<b>2,308</b>	<b>\$368,406</b>	<b>2,365</b>	<b>\$376,249</b>	<b>2,336</b>	<b>\$376,745</b>

# MINE SAFETY AND HEALTH ADMINISTRATION

## SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2012 Enacted	FY 2013 Request	Net Change
<b>Budget Authority</b>			
General Funds	\$372,523	\$371,896	-\$627
<b>Total</b>	<b>\$372,523</b>	<b>\$371,896</b>	<b>-\$627</b>
<b>Full Time Equivalents</b>			
General Funds	2,365	2,336	-29
<b>Total</b>	<b>2,365</b>	<b>2,336</b>	<b>-29</b>

Explanation of Change	FY 2012 Base		Trust Funds		FY 2013 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	2,365	\$192,679	0	\$0	0	\$735	0	\$735
Personnel benefits	0	\$57,590	0	\$0	0	\$214	0	\$214
One day more of pay Federal Employees Compensation Act (FECA)	0	\$0	0	\$0	0	\$907	0	\$907
Benefits for former personnel	0	\$114	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$12,649	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$7,358	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$16,649	0	\$0	0	\$1,290	0	\$1,290
All Other Rental	0	\$109	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$4,569	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$613	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$1,053	0	\$0	0	\$0	0	\$0
Other services	0	\$7,032	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$19,284	0	\$0	0	\$0	0	\$0
Other government accounts (DHS Charges)	0	\$542	0	\$0	0	\$0	0	\$0
Other purchases of goods and services from Government accounts	0	\$4,664	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$15	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$420	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$12,619	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$5,313	0	\$0	0	\$0	0	\$0
Equipment	0	\$11,287	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$9,441	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$8	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>2,365</b>	<b>+\$372,523</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$3,146</b>	<b>0</b>	<b>+\$3,146</b>

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Explanation of Change	FY 2012 Base		Trust Funds		FY 2013 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>B. Programs:</b>								
Strengthening Coal Enforcement	0	\$166,064	0	\$0	0	\$2,852	0	\$2,852
Metal and Nonmetal Mine Inspections	597	\$89,863	0	\$0	0	\$1,834	0	\$1,834
Regulatory Staff and Contractors	24	\$4,816	0	\$0	0	\$600	0	\$600
Contractor Conversion	62	\$18,251	0	\$0	5	\$45	5	\$45
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>+5</b>	<b>+\$5,331</b>	<b>+5</b>	<b>+\$5,331</b>
<b>Total Increase</b>	<b>2,365</b>	<b>+\$372,523</b>	<b>0</b>	<b>\$0</b>	<b>+5</b>	<b>+\$8,477</b>	<b>+5</b>	<b>+\$8,477</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
<b>B. Programs:</b>								
State Grants Reduction	0	\$9,441	0	\$0	0	-\$5,000	0	-\$5,000
Academy Infrastructure Reduction	130	\$33,805	0	\$0	-5	-\$1,545	-5	-\$1,545
Coal Plan Approval Activities	0	\$184,315	0	\$0	-17	-\$1,210	-17	-\$1,210
Reduction for One-Time Projects	154	\$35,474	0	\$0	-9	-\$575	-9	-\$575
Contractor Conversion	50	\$7,177	0	\$0	0	-\$445	0	-\$445
Small Mines Consultation Program	83	\$20,551	0	\$0	-3	-\$330	-3	-\$330
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>-34</b>	<b>-\$9,105</b>	<b>-34</b>	<b>-\$9,105</b>
<b>Total Decrease</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>-34</b>	<b>-\$9,105</b>	<b>-34</b>	<b>-\$9,105</b>
<b>Total Change</b>	<b>2,365</b>	<b>+\$372,523</b>	<b>0</b>	<b>\$0</b>	<b>-29</b>	<b>-\$627</b>	<b>-29</b>	<b>-\$627</b>

## MINE SAFETY AND HEALTH ADMINISTRATION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY</b>								
(Dollars in Thousands)								
	FY 2011 Enacted		FY 2012 Enacted		FY 2013 Request		Diff. FY13 Req. / FY12 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Coal Mine Safety and Health</b>	<b>1,177</b>	<b>160,368</b>	<b>1,187</b>	<b>164,500</b>	<b>1,170</b>	<b>167,859</b>	<b>-17</b>	<b>3,359</b>
General Funds	1,177	160,368	1,187	164,500	1,170	167,859	-17	3,359
<b>Metal and Nonmetal Mine Safety and Health</b>	<b>583</b>	<b>87,644</b>	<b>597</b>	<b>89,063</b>	<b>597</b>	<b>91,697</b>	<b>0</b>	<b>2,634</b>
General Funds	583	87,644	597	89,063	597	91,697	0	2,634
<b>Office of Standards, Regulations, and Variances</b>	<b>22</b>	<b>4,352</b>	<b>24</b>	<b>4,765</b>	<b>24</b>	<b>5,416</b>	<b>0</b>	<b>651</b>
General Funds	22	4,352	24	4,765	24	5,416	0	651
<b>Office of Assessments, Accountability, Special Enforcement and Investigations</b>	<b>45</b>	<b>6,221</b>	<b>50</b>	<b>7,103</b>	<b>55</b>	<b>6,732</b>	<b>5</b>	<b>-371</b>
General Funds	45	6,221	50	7,103	55	6,732	5	-371
<b>Educational Policy and Development</b>	<b>135</b>	<b>38,148</b>	<b>149</b>	<b>38,325</b>	<b>141</b>	<b>31,682</b>	<b>-8</b>	<b>-6,643</b>
General Funds	135	38,148	149	38,325	141	31,682	-8	-6,643
<b>Technical Support</b>	<b>196</b>	<b>31,031</b>	<b>204</b>	<b>33,613</b>	<b>204</b>	<b>33,791</b>	<b>0</b>	<b>178</b>
General Funds	196	31,031	204	33,613	204	33,791	0	178

## MINE SAFETY AND HEALTH ADMINISTRATION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY</b>								
(Dollars in Thousands)								
	FY 2011 Enacted		FY 2012 Enacted		FY 2013 Request		Diff. FY13 Req. / FY12 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Program Evaluation and Information Resources</b>	<b>58</b>	<b>18,173</b>	<b>62</b>	<b>18,157</b>	<b>62</b>	<b>17,990</b>	<b>0</b>	<b>-167</b>
General Funds	58	18,173	62	18,157	62	17,990	0	-167
<b>Program Administration</b>	<b>92</b>	<b>15,906</b>	<b>92</b>	<b>16,998</b>	<b>83</b>	<b>16,729</b>	<b>-9</b>	<b>-269</b>
General Funds	92	15,906	92	16,998	83	16,729	-9	-269
<b>Total</b>	<b>2,308</b>	<b>361,843</b>	<b>2,365</b>	<b>372,523</b>	<b>2,336</b>	<b>371,896</b>	<b>-29</b>	<b>-627</b>
<b>General Funds</b>	<b>2,308</b>	<b>361,843</b>	<b>2,365</b>	<b>372,523</b>	<b>2,336</b>	<b>371,896</b>	<b>-29</b>	<b>-627</b>

NOTE: FY 2011 reflects actual FTE.

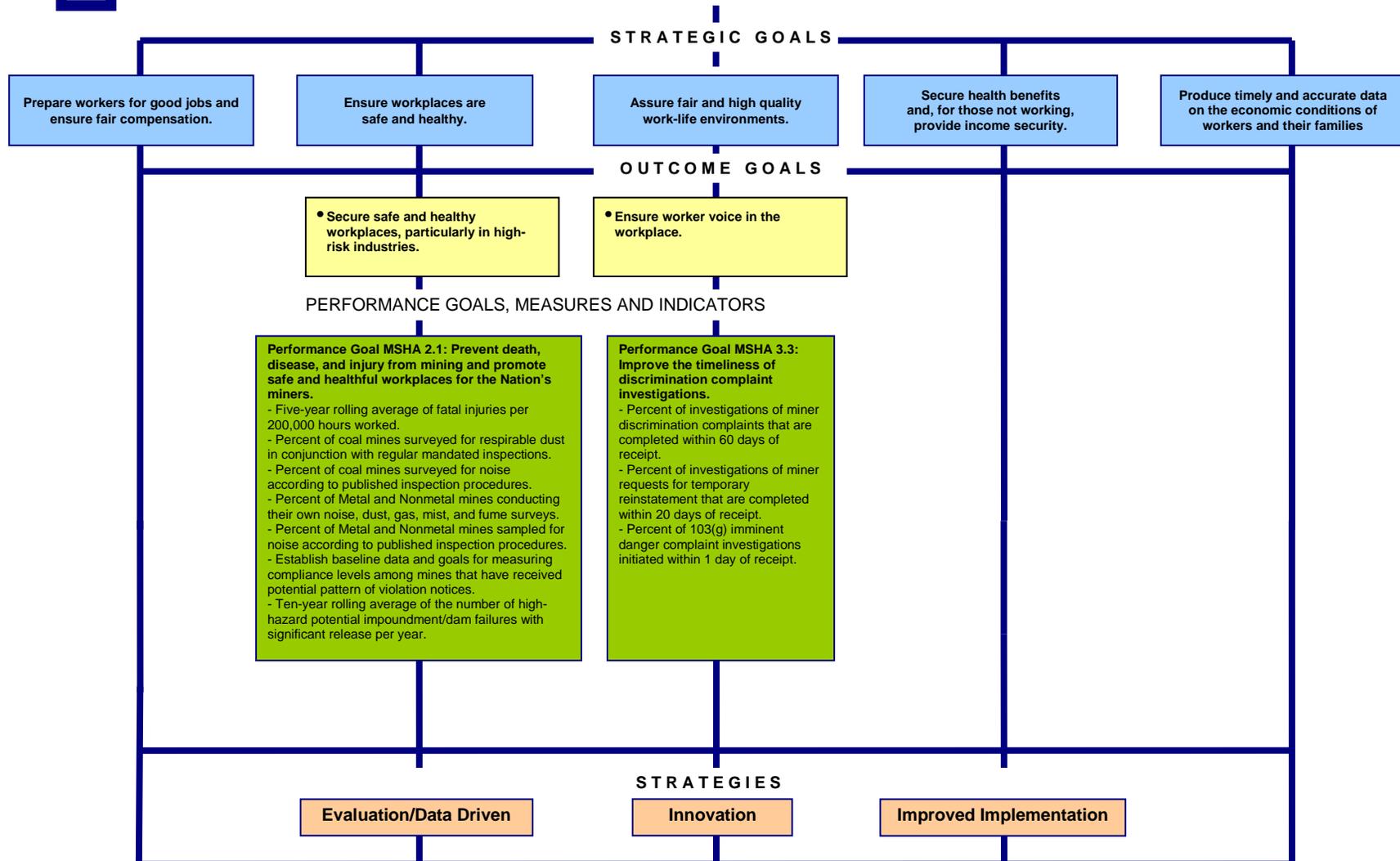
## MINE SAFETY AND HEALTH ADMINISTRATION

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
	Full-Time Equivalent				
	Full-time Permanent	2,369	2,349	2,320	-29
	Other	16	16	16	0
	<b>Total</b>	<b>2,385</b>	<b>2,365</b>	<b>2,336</b>	<b>-29</b>
	Average ES Salary	\$168,997	\$168,997	\$169,631	\$634
	Average GM/GS Grade	11/2	11/2	11/2	0
	Average GM/GS Salary	\$77,072	\$77,072	\$77,361	\$289
	Average Salary of Ungraded Positions	51,611	51,611	51,805	194
11.1	Full-time permanent	183,160	181,461	184,132	2,671
11.3	Other than full-time permanent	0	2,512	2,521	9
11.5	Other personnel compensation	8,372	8,706	8,746	40
11.8	Special personal services payments	0	0	0	0
<b>11.9</b>	<b>Total personnel compensation</b>	<b>191,532</b>	<b>192,679</b>	<b>195,399</b>	<b>2,720</b>
12.1	Civilian personnel benefits	65,878	66,106	66,909	803
13.0	Benefits for former personnel	82	114	114	0
21.0	Travel and transportation of persons	12,891	12,649	12,574	-75
22.0	Transportation of things	7,025	7,358	7,499	141
23.1	Rental payments to GSA	15,914	16,649	18,216	1,567
23.2	Rental payments to others	60	109	109	0
23.3	Communications, utilities, and miscellaneous charges	4,652	4,569	4,544	-25
24.0	Printing and reproduction	587	613	653	40
25.1	Advisory and assistance services	490	1,053	1,053	0
25.2	Other services from non-Federal sources	6,319	7,032	5,885	-1,147
25.3	Other goods and services from Federal sources 1/	22,923	24,490	24,490	0
25.4	Operation and maintenance of facilities	573	420	420	0
25.5	Research and development contracts	0	15	15	0
25.7	Operation and maintenance of equipment	10,677	12,619	11,761	-858
26.0	Supplies and materials	5,156	5,313	5,311	-2
31.0	Equipment	7,582	11,287	12,495	1,208
41.0	Grants, subsidies, and contributions	9,441	9,441	4,441	-5,000
42.0	Insurance claims and indemnities	61	8	8	0
	<b>Total</b>	<b>361,843</b>	<b>372,523</b>	<b>371,896</b>	<b>-627</b>
1/Other goods and services from Federal sources					
	Working Capital Fund	19,342	19,286	19,286	0
	DHS Services	542	542	542	0
	HHS Services	2,349	2,653	2,653	0
	Services by Other Government Departments	0	2,011	2,011	0

# MINE SAFETY AND HEALTH ADMINISTRATION



## Secretary's Vision: "Good Jobs for Everyone"



# MINE SAFETY AND HEALTH ADMINISTRATION

## PERFORMANCE STRUCTURE

<b>Strategic and Outcome Goals Supporting Secretary Solis' Vision of <i>Good Jobs for Everyone</i></b>	<b>Supporting Budget Activities</b>
<b>Strategic Goal 1 – Prepare Workers for Good Jobs and Ensure Fair Compensation</b>	
1.1 Increase workers' incomes and narrowing wage and income inequality.	
1.2 Assure skills and knowledge that prepare workers to succeed in a knowledge-based economy, including in high-growth and emerging industry sectors like “green” jobs.	
1.3 Help workers who are in low-wage jobs or out of the labor market find a path into middle class jobs.	
1.4 Help middle-class families remain in the middle class.	
1.5 Secure wages and overtime.	
1.6 Foster acceptable work conditions and respect for workers' rights in the global economy to provide workers with a fair share of productivity and protect vulnerable people.	
<b>Strategic Goal 2 – Ensure Workplaces Are Safe and Healthy</b>	
2.1 Secure safe and healthy workplaces, particularly in high-risk industries.	Coal Mine Safety and Health Metal and Nonmetal Safety and Health Office of Assessments, Accountability, Special Enforcement and Investigations Office of Standards, Regulations, and Variances Educational Policy and Development Technical Support Program Evaluation and Information Resources Program Administration
<b>Strategic Goal 3 – Assure Fair and High Quality Work-Life Environments</b>	
3.1 Break down barriers to fair and diverse work places so that every worker's contribution is respected.	
3.2 Provide workplace flexibility for family and personal care-giving.	
3.3 Ensure worker voice in the workplace.	Coal Mine Safety and Health Metal and Nonmetal Safety and Health Office of Assessments, Accountability, Special Enforcement and Investigations Educational Policy and Development
<b>Strategic Goal 4 – Secure Health Benefits and, for Those Not Working, Provide Income Security</b>	
4.1 Facilitate return to work for workers experiencing workplace injuries or illnesses who are able to work.	
4.2 Ensure income support when work is impossible or unavailable.	
4.3 Improve health benefits and retirement security for all workers.	
<b>Strategic Goal 5 – Assure the Production of Timely and Accurate Data on Social and Economic Conditions of Workers and their Families</b>	
5.1 Provide sound and impartial information on labor market activity, working conditions, and price changes in the economy for decision making, including support for the formulation of economic and social policy affecting virtually all Americans.	

# MINE SAFETY AND HEALTH ADMINISTRATION

## SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS

**Explanatory Statement:** The conference agreement includes a new provision relating to the "Lowering Miners' Exposure to Coal Mine Dust, Including Continuous Personal Dust Monitors" regulation being developed by the Mine Safety and Health Administration (MSHA). This section is not intended to restrict MSHA's ability to enforce the current rule while this section is in effect or address any compliance assistance or training needs arising from the publication of the final rule during the effective period of this section.

Section 112 of the "Department of Labor Appropriations Act, 2012" states:

"None of the funds made available by this Act may be used to implement or enforce the proposed rule entitled 'Lowering Miners' Exposure to Coal Mine Dust, Including Continuous Personal Dust Monitors' regulation published by the Mine Safety and Health Administration (MSHA) of the Department of Labor on October 19, 2010 (75 Fed. Reg. 64412, RIN 1219-AB64) until -

(1) the Government Accountability Office -

(A) issues, at a minimum, an interim report which -

(i) evaluates the completeness of MSHA's data collection and sampling, to include an analysis of whether such data supports current trends of the incidence of lung disease arising from occupational exposure to respirable coal mine dust across working underground coal miners; and

(ii) assesses the sufficiency of MSHA's analytical methodology; and

(B) not later than 240 days after enactment of this Act, submits the report described in subparagraph (A) to the Committees on Appropriations of the House of Representatives and the Senate; or

(2) the deadline described in paragraph (1)(B) for submission of the report has passed."

**Response:** MSHA will not use the funds made available by this Act to implement or enforce the proposed rule "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors" until the Government Accountability Office has submitted its report, not later than 240 days after enactment of the Act, or the deadline for submission of the report has passed. While this section is in effect, MSHA will have the ability to develop the final rule, enforce the current rule, and address any compliance assistance or training needs arising from publication of the final rule.

**Explanatory Statement:** In order to prepare properly for an actual emergency, the Committee also directs MSHA to continue to devote additional resources toward effective emergency response and recovery training in various types of mine conditions.

**Response:** In FY 2011, MSHA increased funding for the Brookwood-Sago grant program from \$500k to \$1 million. The grantees develop and implement training and related training materials for mine emergency preparedness and response for all underground mines. Additionally, MSHA will upgrade the Mine Simulation Laboratory by installing a communication and tracking system to enhance the training of mine rescue teams and improve mine emergency response.

## MINE SAFETY AND HEALTH ADMINISTRATION

**Explanatory Statement:** The Committee notes that MSHA's budget includes a proposal to reduce printing and mailing costs by adopting a suggestion made by one of MSHA's employees. This suggestion was a finalist in the administration's 2010 SAVE (Securing Americans Value and Efficiency) award process. The Committee appreciates this suggestion and requests that MSHA include in its fiscal year 2013 congressional budget justification information on additional steps the MSHA proposes to carry out its responsibilities more cost effectively.

**Response:** In FY 2011, MSHA established a videoconferencing solution at ten remote locations throughout the United States as a program efficiency and cost savings initiative. This Telepresence system allows remote training for inspectors and will improve dissemination of critical information to the headquarters command center in the event of a mine rescue effort. In 2012, MSHA will implement Phase II of this initiative at ten additional sites. The 20 new sites will deliver modernized training more efficiently, reduce travel and per diem costs, and increase the availability of personnel by reducing training days away from worksites.

# MINE SAFETY AND HEALTH ADMINISTRATION

## AUTHORIZING STATUTES

<b>Public Law / Act</b>	<b>Legislation</b>	<b>Statute No. / US Code</b>	<b>Volume No.</b>	<b>Page No.</b>	<b>Expiration Date</b>
91-173	Federal Mine Safety and Health Act of 1977, As Amended By Public Law 95-164	30 U.S.C., 801 et. seq.	30	823	None
109-236	Mine Improvement and New Emergency Response Act of 2006 (MINER Act)	30 U.S.C., 801 et. seq.	30	823	None

## MINE SAFETY AND HEALTH ADMINISTRATION

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2003...1/	\$254,323	\$254,323	\$261,841	\$407,289	3,488
2004...2/	266,767	266,767	270,711	422,935	3,467
2005...3/	275,567	275,567	280,002	443,019	3,331
2006...4/	280,490	280,490	280,490	470,215	3,442
2007	287,836	278,869	302,436	301,569	2,314
2008...5/	313,478	313,478	340,028	331,847	2,306
2009...6/	332,061	0	346,895	347,003	2,361
2010...7/	353,693	353,193	357,443	357,253	2,425
2011...8/	360,780	0	377,000	361,844	2,328
2012...9/	384,277	379,854	384,277	372,523	2,365
2013	371,896	0	0	0	2,336

- 1/ Reflects a \$1,786 reduction pursuant to P.L. 108-7 and \$9,935 for Mine Mapping budget activity.
- 2/ Reflects a \$1,968 reduction pursuant to P.L. 108-199.
- 3/ Reflects a \$2,400 reduction pursuant to P.L. 108-447.
- 4/ Reflects a \$2,805 reduction pursuant to P.L. 109-148.
- 5/ Reflects a \$5,937 reduction pursuant to P.L. 110-161, and a \$2,078 transfer to the Office of the Solicitor.
- 6/ This bill was only reported out of Subcommittee and was not passed by the Full House.
- 7/ Does not include \$7,259 provided to MSHA for the Upper Big Branch mine investigation and the caseload backlog at the Federal Mine Safety and Health Review Commission in the Supplemental Appropriations Act, P.L. 111-212. This amount was transferred from the Departmental Management account via a nonexpenditure transfer.
- 8/ This bill was only reported out of Subcommittee and was not passed by the Full House. Reflects a \$2,000 transfer to the Office of the Solicitor.
- 9/ Reflects a \$707 reduction pursuant to P.L. 112-74, and a \$770 transfer to the Office of the Solicitor.

# MINE SAFETY AND HEALTH ADMINISTRATION

## OVERVIEW

### Introduction

The Mine Safety and Health Administration (MSHA) promotes safe and healthful workplaces for the nation's miners by pursuing strategies that prevent death, disease, and injuries from mining. MSHA enforces provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act).

MSHA supports the Secretary's vision of *Good Jobs for Everyone* through the following goals:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- Department of Labor (DOL) Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

### Enhancing Worker Safety in FY 2013

MSHA contributes directly to the attainment of safe and healthy workplaces by its efforts to reduce mining fatalities and serious injuries and illnesses. MSHA's fatality rate calculation reflects the number of fatalities per 200,000 hours worked over a five-year period in the mining industry. In FY 2013, MSHA will use the following performance indicators to gauge its success in promoting safer and more healthful mining workplaces:

- Five-year rolling average of fatal injuries per 200,000 hours worked.
- Percentage of Metal and Nonmetal mines conducting their own noise, dust, gas, mist and fume surveys.
- Part 50 Injury Data Quality.
- Mine injuries per 200,000 hours worked.
- Percent of coal mines surveyed for respirable dust in conjunction with regular mandated inspections.
- Percent of coal mines surveyed for noise according to published inspection procedures.
- Number of Pattern of Violation screenings.
- Ten-year rolling average of the number of high-hazard potential impoundment/dam failures with significant release per year.
- Identify gaps in MSHA, mining industry and mine rescue team emergency response preparedness.

## MINE SAFETY AND HEALTH ADMINISTRATION

- Percent of 105(c) investigations of miner discrimination complaints that are completed within 60 days of receipt.
- Percent of investigations of miner requests for temporary reinstatements that are completed within 20 days of receipt.
- Percent of 103(g) imminent danger complaint investigations initiated within 1 day of receipt.

### **Fostering Compliance through Worker Voice**

A good job is safe and secure and gives people a *voice in the workplace*. Miners have a right to identify unsafe or unhealthy conditions to the mine operator without fear of reprisal and to expect the mine operator to correct those conditions. If the conditions are not corrected, miners have a right to request an MSHA inspection, without retaliation or discrimination. If miners do suffer discrimination, MSHA must respond swiftly, including seeking temporary reinstatement of miners alleging discrimination while investigations are pending. Empowering miners to report hazards is critical in reducing safety and health risks. MSHA is vigorously pursuing policies and procedures to ensure miners are aware of their rights to report hazards without fear of discrimination, and ensure these complaints, including those in Spanish, are investigated and resolved in a timely manner. Several of these policies and procedures are explained below.

### **MSHA Priorities for FY 2013**

The budget request presents the resources and strategies that will address the five challenges that MSHA has identified as the Agency's top priorities in FY 2013.

- ***Ensure Workplaces in the Mining Industry are Safe and Healthy.*** While improvements in mining methods and technology have reduced many of the hazards associated with the industry, mining remains an inherently dangerous occupation with unacceptably high rates of injuries and fatalities. According to the *Census of Fatal Occupational Injuries Summary, 2010*, released August 25, 2011 from the Department of Labor's Bureau of Labor Statistics, the mining industry has the second-highest fatality rate per 100,000 employees of all occupations; only the agriculture industry has a higher rate of death on the job. Over the last ten years, the industry experienced 609 fatalities and nearly 117,000 injuries. To reduce these numbers, MSHA is pursuing effective enforcement, meaningful outreach, and special emphasis programs intended to result in a significant reduction in mining fatalities over the long term. Strategies to address this priority problem in FY 2013 include:
  - Conducting mandated regular inspections that ensure operators are complying with health and safety laws and enable MSHA to identify those companies that merit additional oversight.
  - Enhancing enforcement efforts by targeting the most egregious and persistent violators using MSHA's most effective enforcement measures, such as the Pattern of Violations program and the Special Emphasis dust inspections.

## MINE SAFETY AND HEALTH ADMINISTRATION

- Conducting more strategic, less predictable, and more effective impact inspections of mines that merit increased agency attention and enforcement due to their poor compliance history or particular compliance concerns.
- Enhancing enforcement of regulations associated with the most common causes of fatal mine accidents and disasters through initiatives such as *Rules to Live By*, *Rules to Live by II*, *Rules to Live By III – Common Mining Deaths*. *Rules to Live By III* highlights eight coal and six metal and nonmetal standards cited as a result of at least five mining accidents and resulting in at least five fatalities during the 10-year period from January 1, 2001, to December 31, 2010. *Rules to Live By III* does not include standards previously addressed in *Rule to Live By* and *Rules to Live By II*.
- ***Strengthen Regulatory Efforts.*** Ineffective regulations fail to protect workers and prevent injury, illness, and death to our Nation’s miners and may burden mine operators. In the wake of the Upper Big Branch (UBB) mine explosion, MSHA is strengthening its approach to mine safety and health and is implementing one of the most ambitious regulatory agendas in the history of the Mine Act. In FY 2013, MSHA will revise the regulatory agenda, as appropriate, to address recommendations from the UBB investigation report. MSHA will promulgate new or strengthened rules in order to have a lasting, beneficial effect on the health and safety of miners. Strategies to address this priority problem in FY 2013 will include:
  - Correcting deficiencies in current standards.
  - Identifying opportunities for improvement in industry practices for controlling or eliminating significant threats to health and safety.
- ***Ensure Mining Industry Workers have a Voice in the Workplace.*** Workers in the mining industry too often fear reprisal or retaliation for raising valid safety concerns. Also, a lack of understanding among miners of their rights and protections under the law undermines those statutory protections and limits the ability of MSHA to carry out its mission to maintain a safe and healthful environment in all mines, at all times. As was the case at UBB, serious compliance issues and instances of miner intimidation and retaliation occur simultaneously at operations that pose the greatest risk to miners. To assure miners that they can exercise their voice in the workplace, MSHA must: (1) take swift action to investigate reported hazardous conditions, and (2) preserve the rights of miners that experience discrimination. Strategies to address this priority problem in FY 2013 will include:
  - **Prompt investigations.** Expedite investigations of discrimination and retaliation complaints to signal support for workers who exercise their statutory rights. This will demonstrate to miners MSHA’s commitment to protecting their right to report health and safety hazards without fear of retaliation. This will also demonstrate to the industry that MSHA will protect miners’ rights and responsibilities to report unsafe conditions.

## MINE SAFETY AND HEALTH ADMINISTRATION

- **Effective outreach and communication.** Inform the industry and miners of their rights and responsibilities under the Mine Act. Provide miners with the knowledge to exercise their rights through training and the distribution of educational materials at the mine site. Workers with increased knowledge of their rights and protections are more empowered to exercise their rights if necessary.
- **Monitoring and oversight.** Monitor approved instructors who conduct miners' rights training to ensure they are providing effective training.
- ***Modernize Training.*** MSHA has identified inadequate or ineffective training as a contributing factor in a number of mine fatalities. For example, MSHA analyzed data on fatal accidents that occurred between 2006 and 2010. MSHA investigated 298 total fatal mining injuries during that time and cited approximately 200 of the mines in which these fatalities occurred for inadequate training. The data indicate a critical link between training and mining industry safety outcomes. New and inexperienced miners are at a particularly high risk of injury or health problems from safety and health hazards; in addition, an aging mining industry workforce requires targeted training to address unique safety issues faced by older workers. A knowledgeable miner is more likely to recognize hazardous conditions and respond to them appropriately.

Additionally, mine inspectors require continuous training to be successful in understanding their responsibilities, recognizing hazards and violations, and providing consistent, high-quality inspections. Ongoing training of both new and experienced inspectors is essential to assure familiarity with new mining processes and equipment, and to keep pace with changes in the law and regulations.

Strategies to address this priority problem in FY 2013 include:

- Replacing outdated, labor-intensive services with new cost-effective delivery approaches, such as distance learning for inspectors and industry.
- Evaluating MSHA's teleconferencing capabilities.
- Expanding education, compliance assistance, and outreach to the mining industry in order to foster a culture of safety and reduce injuries and deaths.
- ***Reduce the Backlog of Contested Cases before the Federal Mine Safety and Health Review Commission.*** Delays in the swift resolution of contested cases before the Federal Mine Safety and Health Review Commission (FMSHRC) undermine the effectiveness of MSHA's enforcement tools. A sustained commitment to reduce the backlog of penalty cases is essential. If MSHA does not continue progress in this area, mine operators who contest violations will have a longer period of time before those violations become part of their violation history, delaying the impact of these violations on the operators' civil penalty assessment and POV enforcement actions.

Strategies to address this priority problem in FY 2013 include:

- Work collaboratively with the Department's Office of Solicitor (SOL) to develop global holistic settlements with mine operators that reduce the number of

## **MINE SAFETY AND HEALTH ADMINISTRATION**

contested cases and put measures in place to improve compliance, thus reducing the number of future violations contributing to the backlog.

- Continue efforts in the Districts to conduct pre-assessment safety and health conferencing. The new conferencing process will help reduce the backlog of cases that go before the Commission by resolving disputes before litigation occurs.

In February 2012, MSHA announced the reorganization of the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI). The creation of the new office responds to concerns about the predecessor Office of Accountability by placing this activity within a program area focused on enforcement, but independent of the mine inspection program areas, while also providing the office with better management, administrative, and analytical support. The new OAASEI will also centralize the oversight of special enforcement and the development of key enforcement strategies. The new office establishes within a single program area the management of MSHA's enhanced enforcement strategies, including the:

- Pattern of Violations (POV) program;
- Use of the Secretary's injunctive authority;
- Impact Inspection program;
- Use of flagrant violations and special assessments;
- Protection of miners' rights under the Mine Act; and
- Support and coordination of potential criminal cases.

The new office will ensure that MSHA's enforcement policies and procedures are carried out effectively and appropriately.

### **Resources, Priorities, and Performance**

In FY 2013, MSHA is requesting \$371,896,000 and 2,336 FTE. These resources will support a continued shift to priority activities such as enhanced enforcement, rulemaking, modernizing training, and reducing the backlog of contested cases and citations at the FMSHRC. The FY 2013 request prioritizes activities and applies limited budgetary resources to those areas where they will have the greatest impact, and shifts resources from lower to higher priority activities. Most significantly, the request reflects a strong commitment to strengthening the enforcement programs by investing over \$4.7 million dollars in personnel and equipment. In FY 2013, MSHA will strengthen program efficiency and effectiveness by:

- Providing for underfunded enforcement personnel and additional equipment needs through a one-time funding increase and an increase for equipment to be purchased on a regular replacement cycle.
- Addressing identified gaps in MSHA's ability to respond to mine emergencies and conduct mine emergency operations. At every recent mine emergency, such as Sago, Darby, Aracoma, Crandall Canyon, and UBB, gaps existed in MSHA's ability to respond timely and effectively once on site.

# MINE SAFETY AND HEALTH ADMINISTRATION

In FY 2013, MSHA will redirect resources to allow for increased outputs tied to priority activities while maintaining a funding reduction in lower priority activities. The effect of this increase will be evident in the following ways:

- An emphasis on impact inspections of coal mines.
- Focus on respirable coal mine dust through the Special Health Emphasis Inspections.
- Significant progress on the elimination of the “targeted backlog” of contested cases before the FMSHRC.

## User Charges

The FY 2013 budget proposes a new user charge and an increase in an existing user charge for two of MSHA’s activities that convey special benefits to mine operators and manufacturers of certain mining equipment beyond those accruing to the general public. These charges include:

- **Approval and Certification Center.** An increase from \$1,499,000 to \$2,499,000 in the total fees MSHA currently is authorized to charge and retain to approve and certify the equipment, instruments, materials, explosives, and personal protective apparatus that can be used in mines. The existing fee recovers some, but not all, of the costs of operating MSHA’s Approval and Certification Center.
- **Samples analysis.** MSHA proposes a new fee to be paid by mine operators for the processing of rock dust analyses. MSHA is proposing appropriations language to authorize a user charge to recover the cost of its revamped sample analysis program. The implementation of this authority will require rulemaking and the proceeds from the fees will not be available in the same year as authorization.

## **Cost Model**

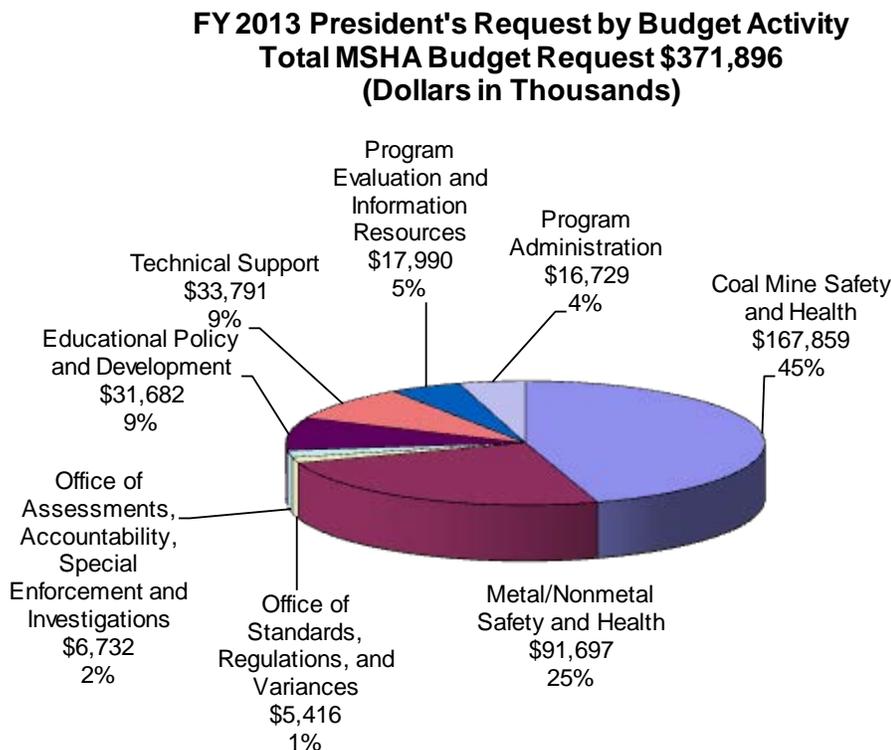
MSHA requests a total of \$371,896,000, a decrease of \$627,000 from the FY 2012 Enacted. This funding level will enable MSHA to meet its highest priority performance plan goals and objectives.

- For the **Coal Mine Safety and Health** budget activity, the request includes an increase of \$2,852,000 to fully fund enforcement personnel and provide for additional equipment needs through a one-time funding increase and an increase for equipment to be purchased on a regular replacement cycle. Within its plan approval activities function, this budget activity will decrease by 17 clerical FTE and \$1,057,000.
- For the **Metal and Nonmetal Mine Safety and Health** budget activity, MSHA is requesting an increase of \$1,834,000 to fully fund enforcement personnel and provide for equipment needs.
- For the **Office of Standards, Regulations, and Variances**, MSHA requests an increase of \$600,000 to support increased rulemaking activities.

## MINE SAFETY AND HEALTH ADMINISTRATION

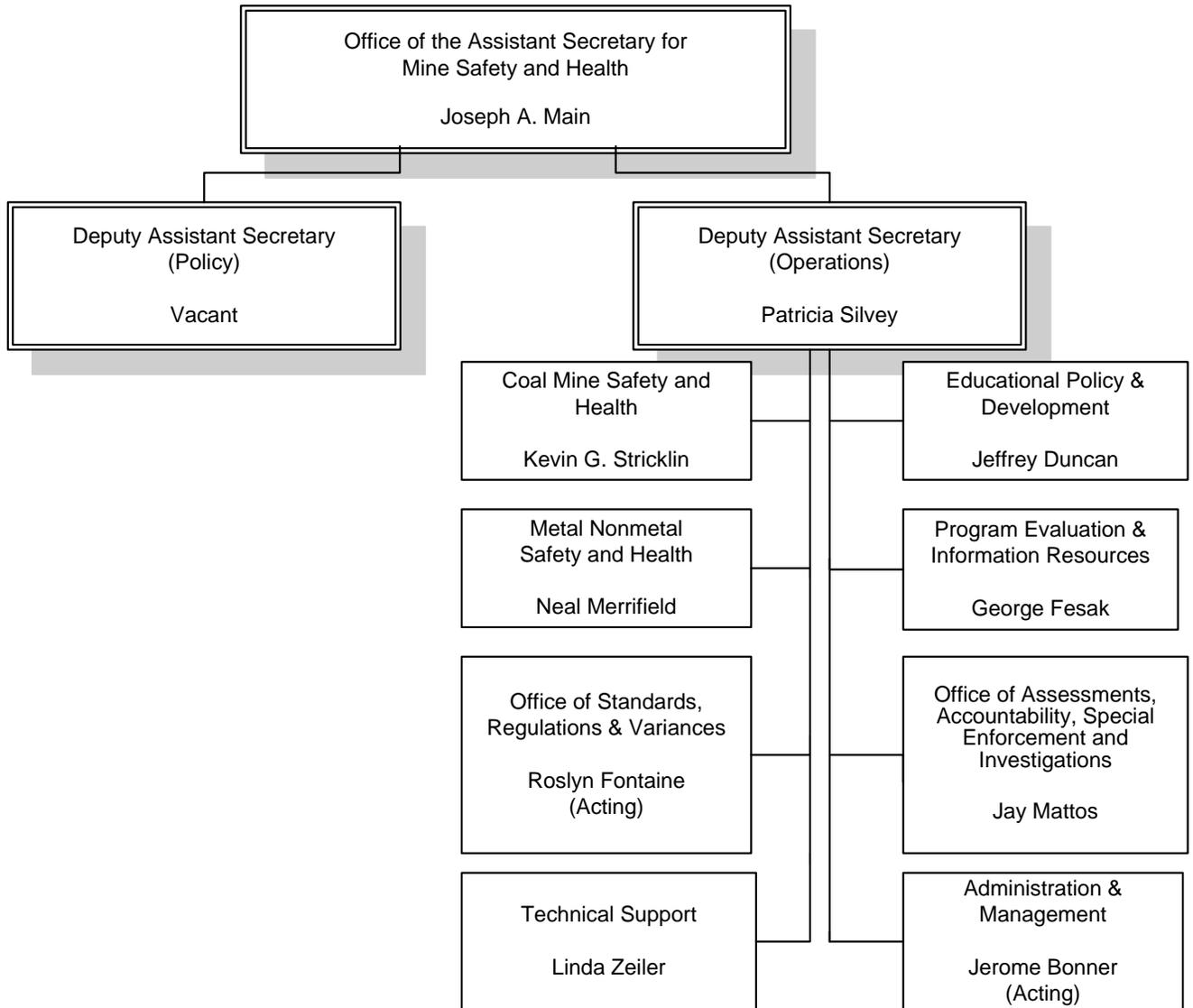
- For the **Office of Assessments, Accountability, Special Enforcement and Investigations**, the request proposes a decrease of \$445,000 and an increase of five FTE for this budget activity to convert contract positions into Federal staff.
- For the **Educational Policy and Development**, the request includes a decrease of \$303,000 and three FTE in the Small Mines Consultation Program, a decrease of \$5,000,000 to its State Grants Program, and a decrease of \$1,500,000 and five FTE to the National Mine Health and Safety Academy.
- For the **Technical Support** activity, the request includes the following changes in reimbursable budget authority:
  - Update fees charged for Approval and Certification Center equipment approvals from \$1,499,000 for a total reimbursable authority of \$2,499,000.
  - Institute charging a fee for rock dust sample analyses.
- For the **Program Evaluation and Information Resources** budget activity, MSHA is requesting a net decrease of \$261,000 for IT services it provides to MSHA employees.
- For the **Program Administration** budget activity, MSHA is requesting a program decrease of \$494,000 and nine FTE due to completion of a one-time expenditure.

The requested funds by program area are displayed in the following chart.



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## Organization Chart



## COAL MINE SAFETY AND HEALTH

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	160,368	164,500	167,859	3,359
FTE	1,177	1,187	1,170	-17

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 1,181.

### Introduction

The Coal Mine Safety and Health (CMSH) budget activity administers the Mine Act and the MINER Act, and ensures compliance with regulations to eliminate fatalities, reduce the frequency and severity of accidents, and minimize health hazards in the nation's approximately 2,386 coal mines. Most of the CMSH employees are located across 12 district offices and 45 field offices throughout the United States. The majority of field employees are mine safety and health enforcement personnel who perform inspection activities and investigations of fatal accidents, non-fatal and/or non-injury investigations, verbal and written hazard complaints, and discrimination complaints.

CMSH supports the Secretary's vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

In FY 2013, CMSH proposes to improve safety and health conditions in the mining workplace through the following:

- **Inspection and enforcement effectiveness** - CMSH will enhance enforcement for violations of the standards associated with fatalities and serious accidents and continue to write citations which are consistent with the seriousness of the violation. CMSH will place increased emphasis on mine operators' responsibility for conducting required health surveys to measure airborne contaminants. This takes a prevention-focused program that includes compliance with mandatory standards as well as the adoption of specific strategies to prevent problems from developing.

## COAL MINE SAFETY AND HEALTH

- **Targeted Inspections and Enhanced Enforcement.** MSHA will apply targeted inspections based on specific mine conditions, screen mines for inclusion in the POV program, and in egregious cases of non-compliance will work with the Office of Solicitor (SOL) to seek injunctive relief or pursue criminal actions against scofflaw operators. MSHA will use its authority under the Mine Act and MINER Act and the associated health and safety standards to improve mines' health and safety.
- **Impact Inspection Initiative.** MSHA will continue its Impact Inspection initiative, which began in April 2010 following the explosion at the Upper Big Branch Mine (UBB). This initiative targets mines with specific conditions, problems or compliance issues that merit increased agency attention and enforcement due to their poor compliance history, including high numbers of violations or closure orders; and adverse conditions such as increased methane liberation, faulty roof conditions, and inadequate ventilation. The goal for the number of Impact Inspections completed will increase from 132 to 144.
- **Promote adoption of prevention-focused, health and safety programs by mine operators.** CSMH will conduct health sampling activities to ensure that all miners' overexposures to noise and respirable dust are cited and promptly corrected by mine operators. CSMH will conduct technical investigations which evaluate the root causes of hazards and accidents in mines. CSMH will also conduct accident prevention inspections in response to specific mine hazards.
- **Collaborate with the Office of Solicitor to reduce the contested case backlog.** MSHA will decrease the time required for violations to reach final order status, which will impact an operator's history for penalty calculations, improve regulatory compliance, and create a safer workplace.
- **Protect Miners from Discrimination.** CSMH will conduct investigations of discrimination complaints and enhance miners' knowledge regarding their rights and responsibilities under the Mine Act. From the date that a miner or miners' representative files a complaint with MSHA, CSMH will initiate the investigation within 15 days; submit the investigative report for higher level review within 20 days; and submit the final investigative report to the Technical Compliance and Investigation Office within 45 days.

### Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$150,123	1,186
2009	\$154,491	1,186
2010	\$158,622	1,217
2011	\$160,368	1,181
2012	\$164,500	1,187

# COAL MINE SAFETY AND HEALTH

## FY 2013

MSHA requests \$167,859,000 and 1,170 FTE for the CSMH activity to:

- Conduct all regular mandated inspections.
- Conduct Impact Inspections.
- Perform accident prevention and outreach activities.
- Vigorously pursue accident investigations (including root cause analysis).
- Conduct investigations of safety and discrimination complaints made by miners or their representatives.
- Continue to reduce the contested case backlog at the Federal Mine Safety and Health Review Commission (FMSHRC).

CSMH estimates it will conduct approximately 5,300 mandatory inspections in FY 2013, but this number may vary depending on the number of operating mines. It will inspect all active underground mines four times per year and all surface mines twice per year. CSMH will also conduct non-mandated inspections, i.e., investigations of hazard complaints, miner discrimination complaints, and accidents, spot inspections, and follow-up visits. CSMH will also focus on improved impoundment safety by conducting inspections at impoundments classified as high-hazard potential.

CSMH will focus on mine operators who fail to meet noise standards or reduce a miner's exposure to noise.

CSMH will continue to encourage an industry-wide culture in which mine operators take ownership of health and safety through effective prevention-oriented health and safety management programs; thorough inspections and robust enforcement; stakeholder outreach, education, and training; and improved regulations.

MSHA will provide 21 weeks of entry-level training programs for new CSMH inspectors, and 48 hours every two years for journeyman inspector retraining. In addition, it will continue the two-week introductory training program for new field office supervisors. MSHA will utilize new technology, such as videoconferencing and online courses, to provide some of the training as a cost-effective method of delivery.

The FY 2013 request includes additional funding for the following initiatives:

- **Strengthening Coal Enforcement** - \$2,852,000 and 0 FTE to accomplish the following:
  - **Fully Fund CSMH Enforcement Staff Positions** – \$644,000 - CSMH will be able to fund enforcement staff vacancies which will increase its capacity to accomplish enforcement activities. These activities include Dust Emphasis Inspections, Impact Inspections, Accident Prevention Inspections, and Compliance Follow-up inspections. This will also allow CSMH to meet

## COAL MINE SAFETY AND HEALTH

timeliness goals for review of roof control and ventilation plans. In addition, resources will be available to conduct outreach programs. All of these activities will enhance workers' safety and promote a secure and healthy workplace.

- **Replace Aging Enforcement Equipment** – \$2,208,000 - A regular equipment replacement cycle is essential to conducting an effective enforcement program. In FY 2011 and FY 2012 CMSH was able to replace only 25 percent of the equipment that exceeded the manufacturer's recommended service life. This request will provide funding to replace aged equipment. Inspection equipment not only monitors the environment within the mine; some items such as Self Contained Self Rescuers (SCSRs), gas monitors, and cap lamps are necessary to keep enforcement personnel safe. Additionally, this request will provide funding for essential enforcement tools such as dust cassettes, calibration gas, and personal protective equipment.

The request also reflects the following decrease:

- A reduction for plan approvals in the amount of \$1,057,000 and 17 FTE. The FTE reductions represent clerical positions supporting enforcement staff that evaluate and approve plans for new mining operations and existing mines. Plans address complex issues, such as unique geological conditions and ventilation issues, and assess the effectiveness of operator dust control and sampling programs. The time to complete plan approvals will increase. However, CMSH will still meet its performance goals. In the wake of the Upper Big Branch (UBB) accident and investigation MSHA shifted priorities towards strengthening its enforcement programs. The FY 2013 request prioritizes activities MSHA performs and applies limited budgetary resources to those areas where they will have the greatest impact. Every budget activity supports functions that prevent death, disease, and injuries from mining, but MSHA considers effective enforcement a top priority and proactive strategy to ensure workplaces in the mining industry are safe and healthy.

### **FY 2012**

CMSH will conduct all mandated underground and surface inspections and conduct investigations due to serious accidents, hazard complaints, discrimination complaints, and willful or knowing violations. CMSH will conduct these investigations in a timely manner and provide valuable information that MSHA, state agencies, industry, and labor organizations will use to develop strategies to prevent similar occurrences and to promote awareness of potential hazards.

Miners must have a *Voice in the Workplace* and be free to exercise their right to identify hazardous conditions and request Agency inspections without discrimination. Empowering miners to report hazards is critical in reducing safety and health risks. CMSH will continue to ensure miners are aware of their right to report hazards without fear of recrimination.

CMSH will continue MSHA's *Rules to Live By* (RLB) initiatives through industry outreach and enhanced enforcement. RLB I and II focused on the 11 most frequently cited standards, in nine

## COAL MINE SAFETY AND HEALTH

accident categories, that cause or contribute to fatal accidents or major disasters. In FY 2012, CMSH will add RLB III with eight additional standards that were not included in the previous initiatives.

The elimination of black lung disease will continue to be high priority and CMSH will expand its Dust Emphasis program. During FY 2012, MSHA will purchase Continuous Personal Dust Monitor (CPDM) units for enforcement personnel and initiate the training of personnel on operation of the units and evaluation of CPDM data. The Agency will develop a program to initiate the use of CPDM technology in the evaluation of dust controls at underground coal mines with dust control problems. These evaluations will determine if dust control measures provide coal miners with a work environment that limits their exposure to respirable coal mine dust and silica in accordance with current health regulations. The use of the new CPDM technology will provide real-time respirable dust concentration data which will help compensate for the delays inherent in the traditional gravimetric testing process.

The expanded Dust Emphasis Program will target coal mines for special dust emphasis inspections and monitor operator sampling activities. In conjunction with regular inspections, CMSH will review operators' dust monitoring programs and assure that approved dust sampling units used by mine operators are properly maintained and calibrated. CMSH will continue to work with the National Institute for Occupational Safety and Health (NIOSH) to develop a toolbox of best practices for controlling respirable dust and quartz and continue to collaborate with major mining equipment manufacturers to identify the most effective engineering control measures currently available and promote their use.

Hearing loss is a major health problem for miners. CMSH will continue to work with the mining industry, labor unions, and the states to improve training programs on hearing loss prevention strategies in order to reduce overexposures to noise. CMSH will review mine operator previous year compliance histories, action plans, and other data to identify outstanding compliance issues associated with mining occupations, types of mining equipment, and/or mining environments.

CMSH will meet or exceed its goal to conduct 132 Impact Inspections. These Impact Inspections are intensified inspections at mines with significant compliance or other health or safety issues.

CMSH will strive not only to keep our Nation's miners safe, but also to ensure the safety of the surrounding communities by continuing education and outreach programs, including *Winter Alert, Stay Out – Stay Alive*, and *Preventive Roof/Rib Outreach Program*. These activities focus on unsafe conditions that miners and the general population should avoid.

MSHA will begin implementing pre-assessment conferencing procedures to help reduce the backlog of future violations before FMSHRC. The new process will provide early resolution of disputes, reduce the number of contested citations and orders, increase accuracy and consistency, and improve communication among mine operators, miners, and MSHA.

On April 5, 2010, disaster struck the Upper Big Branch Mine, representing the worst coal mining disaster in 40 years. MSHA conducted an accident investigation and is nearing completion of an

## COAL MINE SAFETY AND HEALTH

internal review. MSHA will begin to implement changes and recommendations for improving miner safety that arise from these investigations. Congress provided additional funding to train enforcement staff on the findings of the UBB Investigation and Internal Review.

In January, 2011, the Agency issued a policy stating that Authorized Representatives (ARs) are required to complete at least 48 hours of retraining each two year cycle. ARs act on behalf of the Secretary of Labor to enforce health and safety standards through the issuance of citations for violations. This policy was in response to an Office of Inspector General (OIG) report issued in March 2010. CMSH will continue to ensure all ARs receive their required retraining throughout the remaining training cycle that continues through 2012.

In February 2012, MSHA reorganized the Office of Assessments into the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI). Congress reallocated \$416,000 and three FTE from CMSH to OAASEI to support the accountability functions. CMSH had previously provided dedicated funds to the Program Administration activity in support of the predecessor Office of Accountability.

Additionally, MSHA reallocated \$600,000 from the Program Administration budget activity to CMSH to support the contested case backlog reduction initiative. This funding provides for additional Conference Litigation Representatives and backlog managers that directly support FMSHRC-related activities.

### **FY 2011**

In support of Strategic Goal 2: Ensure workplaces are safe and healthy, CMSH completed all of its mandated inspections. These inspections were conducted at underground mines four times per year and at surface mines two times per year.

CMSH continued to work to protect miners from the hazards associated with exposure to respirable coal dust and quartz (silica). CMSH took aggressive action to reduce miners' overexposures to respirable dust by continuing with the strategies introduced in 2010 with the "End Black Lung, Act Now!" campaign. CMSH continued its Dust Emphasis Program that targeted coal mines for special dust emphasis inspections and monitored operator sampling activities. In conjunction with regular inspections, CMSH reviewed operators' dust monitoring programs and assured that approved dust sampling units used by mine operators were properly maintained and calibrated. MSHA updated its homepage and black lung page with information relating to "best practices."

CMSH conducted 144 Impact Inspections. This initiative targeted mining operations with violations of health and safety standards above the national average. Inspections focused on areas including ventilation controls, bleeder entries, seals, rock-dusting, permissibility, examinations, methane monitors, belt conveyors, and accumulations of combustible material.

CMSH shared many educational and outreach programs with local communities. Programs such as *Winter Alert*, *Stay Out--Stay Alive*, and *Preventive Roof/Rib Outreach Program* focus on

## COAL MINE SAFETY AND HEALTH

unsafe conditions that should be avoided by miners and the general population, especially children.

CMSH split District 4 into two districts, creating District 12. Prior to the split, District 4 had 400 of the nation's 2,100 coal mines and 27 percent of all mechanized mining units in the nation, compared to 14 percent in the next closest district. This split has made the workload in this area more manageable.

In an effort to ensure our Nation's miners are safe, CMSH works with the mining industry and other government agencies to develop new strategies. In FY 2011, CMSH participated in stakeholder meetings on Mine Emergency Operations in MSHA and the collaborative effort produced strategies to close gaps in capabilities, improve technology, and develop effective procedures. CMSH also maintained continuing contacts with NIOSH on mine safety and health matters, including development and availability of coal dust explosibility meters for underground coal mining.

In FY 2011, CMSH provided funding to the Program Administration budget activity in support of the Office of Accountability. This office develops and implements strategies for enhanced enforcement towards chronic violators of health and safety standards.

## COAL MINE SAFETY AND HEALTH

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Coal Mine Safety and Health</b>				
<b>Strategic Goal 2 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
MSHA-CM-01 Percent of regular mandated coal inspections	100.00%	100.00%	100.00%	100.00%
MSHA-CM-01.1 Number of regular mandated coal underground inspections	--	2,327	2,300	2,300
MSHA-CM-01.2 Number of regular mandated coal surface inspections	--	2,812	2,800	2,800
MSHA-CM-02 Number of impact inspections of coal mines	132	144	132	144
MSHA-CM-03 Percent of high-hazard potential coal impoundment inspections	100.00%	100.00%	100.00%	100.00%
MSHA-CM-04 Percent of inspector Designated Occupation samples exceeding the applicable respirable coal mine dust standard	6.32%	5.75%	--	--
MSHA-CM-04 Percent of coal mines surveyed for respirable dust in conjunction with regular mandated inspections	--	--	100.00%	100.00%
MSHA-CM-05 Percent of noise exposures in coal mines above the citation level	2.99%	2.72%	--	--
MSHA-CM-05 Percent of coal mines surveyed for noise according to published inspection procedures	--	--	100.00%	100.00%
MSHA-CM-06.1 Percent of new roof plan approvals completed within 44 days	75.00%	83.00%	80.00%	75.00%
MSHA-CM-06.2 Percent of roof plan addenda approvals completed within 22 days	75.00%	81.00%	80.00%	75.00%
MSHA-CM-07.1 Percent of ventilation plan approvals completed within 59 days	70.00%	81.00%	80.00%	70.00%
MSHA-CM-07.2 Percent of ventilation plan addenda approvals completed within 22 days	66.00%	77.00%	75.00%	66.00%
MSHA-CM-08 Number of Special Emphasis respirable coal mine dust inspections	12	16	12	12
DOL Priority Goal Five-year rolling average of fatal injuries per 200,000 hours worked /1	.0178	.0164	.0156	TBD
(ALL MSHA RATE)	.0284	.0246	.0234	TBD
(COAL RATE)				
Part 50 Injury Data Quality /2	--	--	TBD	TBD
Mine injuries per 200,000 hours worked /3	--	--	TBD	TBD

## COAL MINE SAFETY AND HEALTH

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
MSHA-07 Ten-year rolling average of the number of high-hazard potential impoundment/dam failures with significant release per year /4	1.2	1.2	1.2	TBD
MSHA-08 Percent of petitions filed within 45 days of receipt of a timely contest	--	--	100.00%	100.00%
<b>Strategic Goal 3 - Assure fair and high quality work-life environments</b>	--	--	--	--
<b>Outcome Goal 3.3 - Ensure worker voice in the workplace</b>	--	--	--	--
MSHA-01 Percent of 105(c) investigations of miner discrimination complaints that are completed within 60 days of receipt	80.00%	81.00%	85.00%	85.00%
MSHA-02 Percent of investigations of miner requests for temporary reinstatements that are completed within 20 days of receipt	70.00%	73.00%	70.00%	70.00%
MSHA-03 Percent of 103(g) imminent danger complaint investigations initiated within 1 day of receipt	100.00%	100.00%	100.00%	100.00%

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*Footnotes: TBD targets will be established annually. In addition:*

*/1MSHA's fatality rate reflects the number of fatalities per 200,000 hours worked during the prior five-year period. The FY 2012 result is required to calculate the five-year average in FY 2013.*

*/2 Measure under development.*

*/3 Implementation of this measure is dependent upon the outcome of the Data Quality study/assessment.*

*/4 MSHA's rate for the number of high-hazard potential impoundment/dam failures with significant release per year reflects the prior 10-year period. The FY 2012 result is required to calculate the 10-year rolling average in FY 2013.*

CMSH's mission is to administer the provisions of the Mine Act and MINER Act and the standards outlined in Title 30, Code of Federal Regulations, to protect the safety and health of miners in the nation's coal mines. This mission directly supports MSHA's priorities through the following:

In support of its performance measures, CMSH will accomplish the following:

- Consistent with MSHA's statutory framework, CMSH will conduct the enforcement activities mandated in the Mine Act and MINER Act. These activities include inspections at underground coal mines four times per year and at surface mines and installations twice per year. These inspections provide a direct look at conditions at our nation's mines and help ensure the safety of our nation's miners. As part of the mandated

## COAL MINE SAFETY AND HEALTH

inspection activities, CSMH will inspect all of the existing high-hazard impoundments in order to reduce the risk to miners, the general public, and the environment should these impoundments fail. These inspections help to *Ensure Workplaces in the Mining Industry are Safe and Healthy*.

- CSMH will continue its Impact Inspections initiative, which began in April 2010 after the UBB mine disaster. In FY 2013, the program will conduct 144 impact inspections; this is an increase of 12 over the FY 2012 target of 132. These inspections target mines whose history of underground conditions indicate a significant number of violations and or conditions that may include problems relating to methane accumulations, ventilation practices, rock dust applications, and inadequate mine examinations. MSHA also targets mines that could be at risk of explosions, mines with histories of accidents or fatalities, or mines with other warning signs, such as efforts to cover up violations or anonymous complaints. MSHA expects that year by year mines will improve and CSMH will conduct fewer impact inspections.
- CSMH will continue to take aggressive action to reduce miners' overexposure to respirable coal dust. It will conduct 12 special dust emphasis inspections and will review operator dust controls in mine ventilation and dust control plans. In conjunction with regular inspections, CSMH will review operators' dust monitoring programs and assure that operators are properly calibrating and maintaining dust sampling units. CSMH will continue to work with mining equipment manufacturers to identify the most effective engineering control measures and promote their use. These activities will help ensure the respiratory health of our nation's miners.
- Despite the proposed decrease in funding for plan approvals, CSMH will meet its plan review performance goals. MSHA can quickly take measures to ensure proper ventilation and roof control standards are being applied in a mine. This helps to ensure a safer mining environment.
- To reduce miners' overexposures to noise, MSHA will continue to work with the mining industry, labor unions, and the states to improve training programs on hearing loss prevention strategies. MSHA will review mining operations' previous year compliance histories, compliance action plans, and other data to identify outstanding compliance issues associated with mining occupations, types of mining equipment, and/or mining environments.
- Miners must have a *voice in the workplace* and be free to exercise their right to identify hazardous conditions and request MSHA inspections without operator retaliation or discrimination. Empowering miners to report hazards is critical to reducing safety and health risks. CSMH will continue to implement policy and procedures to ensure miners are aware of their right to report hazards without fear of recrimination. CSMH will strive to ensure that all miner requests for temporary reinstatement, investigations of 105(c) miner discrimination complaints and 103(g) imminent danger complaints are investigated in a timely manner.

## COAL MINE SAFETY AND HEALTH

CMSH will conduct key non-mandatory inspections and activities aimed at protecting our nation's miners. These inspections include, but are not limited to:

- **Accident prevention inspections**, which are conducted in response to specific mine accident hazards such as increased chances of methane ignition in winter, roof falls, and powered haulage;
- **Technical investigations**, which include activities designed to assist industry and labor in improving safety and health conditions and practices in mines;
- **Outreach programs** such as *Winter Alert*, *Stay Out*, *Stay Alive*, and *Preventive Roof/Rib Outreach Program* that focus on unsafe conditions that should be avoided by miners and the general population;
- **General outreach efforts** that focus on high-risk mining occupations and conditions such as surface mine drilling and blasting operations, surface haulage, underground roof-bolting operations, and longwall mining which allow CMSH to eliminate or reduce hazards with the broadest and most serious consequences; and
- **Compliance follow-up inspections**, which are conducted to ensure that the mine operators are correcting violations in the time allotted by the inspector.

## COAL MINE SAFETY AND HEALTH

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	87,421	86,764	87,515	751
11.3	Other than full-time permanent	0	974	978	4
11.5	Other personnel compensation	5,419	5,397	5,417	20
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>92,840</b>	<b>93,135</b>	<b>93,910</b>	<b>775</b>
12.1	Civilian personnel benefits	35,198	34,995	35,203	208
13.0	Benefits for former personnel	44	114	114	0
21.0	Travel and transportation of persons	2,161	2,708	2,748	40
22.0	Transportation of things	3,896	3,947	4,047	100
23.1	Rental payments to GSA	8,878	9,287	10,156	869
23.2	Rental payments to others	12	15	15	0
23.3	Communications, utilities, and miscellaneous charges	1,362	1,476	1,486	10
24.0	Printing and reproduction	149	147	147	0
25.1	Advisory and assistance services	214	245	245	0
25.2	Other services from non-Federal sources	448	1,338	1,338	0
25.3	Other goods and services from Federal sources 1/	10,066	10,461	10,461	0
25.4	Operation and maintenance of facilities	32	19	19	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	1,062	1,338	1,338	0
26.0	Supplies and materials	1,991	1,304	1,487	183
31.0	Equipment	1,963	3,969	5,143	1,174
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	52	2	2	0
	<b>Total</b>	<b>160,368</b>	<b>164,500</b>	<b>167,859</b>	<b>3,359</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	9,474	9,444	9,444	0
	DHS Services	294	294	294	0
	HHS Services	212	725	725	0

# COAL MINE SAFETY AND HEALTH

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$349
Personnel benefits	106
One day more of pay	434
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	675
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$1,564**

**Net Program** **\$1,795**

**Direct FTE** **-17**

	Estimate	FTE
<b>Base</b>	<b>\$166,064</b>	<b>1,187</b>
<b>Program Increase</b>	<b>\$2,852</b>	<b>0</b>
<b>Program Decrease</b>	<b>-\$1,057</b>	<b>-17</b>



## METAL AND NONMETAL MINE SAFETY AND HEALTH

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	87,644	89,063	91,697	2,634
FTE	583	597	597	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 589.

### **Introduction**

The Metal and Nonmetal Mine Safety and Health (MNMSH) budget activity administers the Mine Act, the MINER Act, and ensures compliance with regulations to eliminate fatalities, reduce the frequency and severity of accidents, and minimize health hazards in the nation's nearly 12,500 metal and nonmetal mines. Most of the MNMSH employees are located across six district offices and 47 field offices throughout the United States and Puerto Rico. The majority of field employees are mine safety and health professionals who perform inspection activities and investigations, including fatal accident investigations, non-fatal and/or non-injury accident investigations, verbal and written hazard complaint investigations, and discrimination complaint investigations.

MNMSH supports the Secretary's vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

In FY 2013, MNMSH will improve safety and health conditions in the mining workplace through the following strategies:

- **Increase inspection and enforcement effectiveness** - As part of MSHA's "Rules to Live By" program, MNMSH will enhance enforcement for violations of the standards associated with fatalities and serious accidents and continue to write citations which are consistent with the seriousness of the violation. MNMSH will place increased emphasis on mine operators' responsibility for conducting required health surveys to measure airborne contaminants. MNMSH will place emphasis on conducting regular inspections of all high-hazard dams.

## METAL AND NONMETAL MINE SAFETY AND HEALTH

- **Promote adoption of prevention-focused, health and safety programs by mine operators** - MNMSH will conduct health sampling activities to ensure that all miners' overexposures to airborne contaminants are cited and promptly corrected by the mine operator.
- **Collaborate with the Office of Solicitor to reduce the backlog of contested cases before the Federal Mine Safety and Health Review Commission (FMSHRC)** - MSHA will decrease the time required for violations to reach final order status, which will impact an operator's history for penalty calculations, improve regulatory compliance, and create a safer workplace.
- **Increase efforts to protect miners from discrimination** - MNMSH will closely monitor, manage, and reduce the time to process miners' discrimination complaints and complete investigations of knowing and willful violations. During safety talks, MNMSH will distribute training materials to help ensure that miners are aware of their rights and responsibilities and that they know MSHA is committed to protecting their right to report health and safety hazards without fear of retaliation.

Currently, more than 224,000 people work in the metal and nonmetal mining sector. This sector provides essential raw materials for the nation's transportation infrastructure, construction and housing, communications, medicine, the arts, manufacturing, consumer goods, and agricultural industries. The majority of metal and nonmetal mines are small business operations, and many have no formal safety program. However, smaller mines do not mean fewer risks; mine hazards are inherent in the work of moving and processing extremely large volumes of materials. Just as mining is vital to the American economy, a safe and healthy workforce is critical to the continued successful operation of the mining industry.

As the mining industry continues to expand to meet an increased demand for natural resources, MSHA will endeavor to assist mine operators in maintaining safe and healthful workplaces, and ensure that miners are provided adequate health and safety training. New mine operators are at a particular risk of safety and health hazards.

### Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$74,420	543
2009	\$82,427	598
2010	\$85,422	620
2011	\$87,644	589
2012	\$89,063	597

# METAL AND NONMETAL MINE SAFETY AND HEALTH

## FY 2013

MSHA requests \$91,697,000 and 597 FTE for the MNMSH activity to:

- Conduct all of its regular mandated inspections.
- Conduct Impact Inspections.
- Perform accident prevention and outreach activities.
- Vigorously pursue accident investigations (including root cause analysis).
- Conduct investigations of safety and discrimination complaints made by miners or their representatives.
- Continue to reduce the contested case backlog at the Federal Mine Safety and Health Review Commission (FMSHRC).

MNMSH estimates it will conduct approximately 29,000 inspections in FY 2013. These include regular mandated and non-mandated inspections, i.e., hazardous complaints, special and accident investigations, spot check, and follow-up visits. MNMSH will also focus on improved impoundment safety by increasing inspection activity at the dams classified as high-hazard potential.

MSHA projects that it will conduct 30 Impact Inspections at metal and nonmetal mines in FY 2013, 10 fewer than in FY 2012. MSHA estimates that, as a result of increased enforcement efforts, compliance and safety records will improve in FY 2013 and a smaller number of mines will therefore meet the criteria for Impact Inspections.

MNMSH will continue its focus on mine operators who fail to keep hazardous contaminant exposures, including silica, below required limits.

MNMSH will continue to encourage an industry-wide culture in which mine operators take ownership of health and safety through effective, prevention-oriented health and safety management programs; thorough inspections and robust enforcement; stakeholder outreach, education, and training; and improved regulations.

MSHA will provide 21 weeks of entry-level training programs for new MNMSH inspectors, and 48 hours every two years for journeyman inspector retraining. In addition, field office supervisors will attend a two-week training program. MSHA will utilize new technology such as videoconferencing and online courses to provide some of the training as a cost-effective method of delivery.

The FY 2013 request includes a program increase of \$1,834,000 and 0 FTE Metal and Nonmetal mine inspections. This will fully fund MNMSH enforcement staff positions, which will increase the agency's capacity to accomplish enforcement activities, including impact inspections, health sampling for air contaminants and noise, impoundment/dam inspections, and to effectively respond to miners' discrimination complaints.

# METAL AND NONMETAL MINE SAFETY AND HEALTH

## FY 2012

MNMSH will inspect all active underground mines four times per year and all active surface mines twice per year, as required by the Mine Act. MNMSH estimates that it will conduct 790 regular underground inspections and 15,000 regular surface inspections for a total of 15,790 mandated inspections. Citations resulting from these inspections will be abated promptly, requiring mine operators to correct unsafe and unhealthful conditions. This is the most effective tool that MSHA possesses to secure safe and healthful work environments in the mining industry.

In addition to the annual and follow-up inspections mandated by the Mine Act, MNMSH will conduct other important activities to ensure the health and safety of the miner. These activities include inspection of gassy mines at intervals required by the Mine Act, accident investigations (including root cause analysis), and investigations of safety and discrimination complaints made by miners or their representatives.

MNMSH will continue its Impact Inspection initiative. It will select mines based on mine compliance, accident, and injury history. While the program estimates that it will conduct 40 impact inspections in FY 2012, the actual number of mines will depend on how many meet the criteria for needing additional inspections.

MNMSH will focus on improved impoundment safety by increasing inspection activity at the impoundments classified as high-hazard to continue with the reduction of the 10-year rolling average of the number of high-hazard impoundment failures.

MNMSH will conduct health sampling at 20 percent of mines. It will assess the effectiveness of the operators' dust control and sampling programs through data collection, observations of mining cycle and work practices, interviews, plan reviews, and sampling. The collected data form the basis of appropriate enforcement actions and ensure that mine plans are adequate to protect miners from overexposures of respirable silica-bearing dust. Increased health resources will also allow MNMSH to explore additional innovative initiatives to target other health hazards, update policy and procedures, and more effectively administer the Health Program.

MNMSH will continue to target mine operators who fail to keep hazardous contaminant exposures below established limits. MNMSH will also encourage an industry-wide culture in which mine operators take ownership of health and safety through effective, prevention-oriented health and safety management programs; thorough inspections and robust enforcement; stakeholder outreach, education, and training; and improved regulations. The MNMSH goal in FY 2012 is to increase the percent of operators conducting their own silica dust surveys by an additional 17 percent over the FY 2011 target of 17 percent.

MNMSH efforts to reduce the backlog of contested cases before the FMSHRC-- and prevent a future backlog -- include reintroducing pre-contest conferencing back into the District Offices. Implementing the program Agency-wide will improve enforcement effectiveness and reduce the number of contested citations. MNMSH will also continue to utilize support personnel in the districts in support of conference litigation work. Support personnel draft documents, print exhibits, assemble

## **METAL AND NONMETAL MINE SAFETY AND HEALTH**

hearing packets, copy inspection files, maintain case files, enter data into the information system, and file documents and related correspondence.

Miners must have a *Voice in the Workplace* and be free to exercise their right to identify hazardous conditions and request Agency inspections without discrimination. Empowering miners to report hazards is critical in reducing safety and health risks. MNMSH will closely monitor, manage, and reduce the time it takes to process miners' discrimination complaints and complete investigations of knowing and willful violations to demonstrate to miners our commitment of protecting their right to report health and safety hazards without fear of retaliation.

On April 5, 2010, disaster struck the Upper Big Branch Mine, representing the worst coal mining disaster in 40 years. MSHA conducted an accident investigation and is nearing completion of an internal review. MSHA will begin to implement changes and recommendations for improving miner safety that arise from these investigations. Congress provided additional funding to train enforcement staff on the findings of the UBB Investigation and Internal Review.

In February 2012, MSHA reorganized the Office of Assessments into the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI). Congress reallocated \$142,000 and one FTE from MNMSH to OAASEI to support the accountability functions. MNMSH had previously provided dedicated funds to the Program Administration activity in support of the predecessor Office of Accountability.

Additionally, MSHA reallocated \$400,000 from the Program Administration budget activity to MNMSH to support the contested case backlog reduction initiative. This funding provides for additional Conference Litigation Representatives and backlog managers that directly support FMSHRC-related activities.

### **FY 2011**

In FY 2011, MSHA issued hazard alerts, safety flyers, and fatality alerts to miners on topics such as wet mining, arc flash, lock and tag out, aggregate injuries and fatalities, and drowning incidents.

MNMSH conducted all mandated safety and health inspections and performed a total of 27,529 inspection events and 240 compliance activities at metal and nonmetal mines. Compliance activities included accident investigations, including root cause analysis in reports, and investigations of hazardous conditions complaints and discrimination complaints made by miners or their representatives. Industry used the information at safety talks at the start of the work day to promote awareness, with the goal of preventing similar occurrences.

MNMSH participated in MSHA's Quality Impact Inspections initiative which began in April 2010 following the explosion at the Upper Big Branch coal mine. The impact inspections involved off-shift inspections of mines that merit increased agency attention and enforcement due to their poor compliance history or particular compliance concerns. MNMSH conducted impact inspections at 59 metal and nonmetal mines which resulted in over 957 citations and 127

## METAL AND NONMETAL MINE SAFETY AND HEALTH

orders. MNMSH exceeded the 40 impact inspection target established by MSHA's FY 2011 Operating Plan.

In the past, dam failures at metal and nonmetal mines have exposed miners to life-threatening hazards. Some dams are not designed, constructed, operated, and maintained to accepted dam safety practices. MNMSH inspected all 197 high-hazard dams during FY 2011.

In FY 2011, 26 percent of metal and nonmetal mines conducted their own surveys and/or exposure monitoring for noise and air contaminants. This greatly exceeded the 17 percent target established under MSHA's FY 2011 Operating Plan.

MSHA developed new and updated training materials for all MNMSH journeyman inspectors and supervisors. This activity also updated the health inspection manual and DPM compliance guide, and coordinated an interagency agreement with the Occupational Safety and Health Administration (OSHA) to provide asbestos sampling.

MNMSH proactively developed various materials to educate and inform miners of their rights. Miners were given a Miners' Rights Trifold- Brochure, Pocket Card and stickers. Posters were placed at mine sites. Miners were also told of MSHA's website *A Guide to Miners' Rights and Responsibilities* as well as information available from the Mine Academy including a DVD of the same title. All investigations for Sections 103(g) and 105(c) related to miners' discrimination complaints were conducted in a timely manner and consistent with Agency's policy and procedures.

MNMSH provided representatives to serve and share expertise on regulatory committees to strengthen health and safety regulations. This resulted in a more streamlined, robust approach to rulemaking and higher visibility for safety and health issues affecting miners.

In FY 2011, MNMSH contributed funding to the Program Administration activity in support of the Office of Accountability.

## METAL AND NONMETAL MINE SAFETY AND HEALTH

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Metal and Nonmetal Mine Safety and Health</b>				
<b>Strategic Goal 2 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
MSHA-MNM-01 Percent of regular mandated MNM inspections	100.00%	100.00%	100.00%	100.00%
MSHA-MNM-01.1 Number of regular mandated MNM underground inspections	--	796	790	790
MSHA-MNM-01.2 Number of regular mandated MNM surface inspections	--	15,341	15,000	15,510
MSHA-MNM-02 Number of impact inspections of MNM mines	40	59	40	30
MSHA-MNM-03 Percent of high-hazard potential MNM dam inspections	100.00%	100.00%	100.00%	100.00%
MSHA-MNM-04 Percent of Metal and Nonmetal mines conducting their own noise, dust, gas, mist, and fume surveys	17.00%	26.00%	34.00%	51.00%
MSHA-MNM-05 Percent of Metal and Nonmetal mines sampled for noise according to published inspection procedures	--	--	20.00%	20.00%
DOL Priority Goal Five-year rolling average of fatal injuries per 200,000 hours worked /1	.0178	.0164	.0156	TBD
(ALL MSHA RATE)				TBD
(MNM RATE)	.0113	.0112	.0106	TBD
Part 50 Injury Data Quality /2	--	--	TBD	TBD
Mine injuries per 200,000 hours worked /3	--	--	TBD	TBD
MSHA-07 Ten-year rolling average of the number of high-hazard potential impoundment/dam failures with significant release per year /4	1.2	1.2	1.2	TBD
<b>Strategic Goal 3 - Assure fair and high quality work-life environments</b>	--	--	--	--
<b>Outcome Goal 3.3 - Ensure worker voice in the workplace</b>	--	--	--	--
MSHA-01 Percent of 105(c) investigations of miner discrimination complaints that are completed within 60 days of receipt	80.00%	81.00%	85.00%	85.00%
MSHA-02 Percent of investigations of miner requests for temporary reinstatement that are completed within 20 days of receipt	70.00%	73.00%	70.00%	70.00%

## METAL AND NONMETAL MINE SAFETY AND HEALTH

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
MSHA-03 Percent of 103(g) imminent danger complaint investigations initiated within 1 day of receipt	100.00%	100.00%	100.00%	100.00%

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*Footnotes: TBD targets will be established annually. In addition:*

*/1 MSHA's fatality rate reflects the number of fatalities per 200,000 hours worked during the prior five-year period. The FY 2012 result is required to calculate the five-year average in FY 2013.*

*/2 Measure under development.*

*/3 Implementation of this measure is dependent upon the outcome of the Data Quality study/assessment.*

*/4 MSHA's rate for the number of high-hazard potential impoundment/dam failures with significant release per year reflects the prior 10-year period. The FY 2012 result is required to calculate the 10-year rolling average in FY 2013.*

The MNMSH budget activity will support the Strategic Goals of *Ensuring Workplaces in the Mining Industry are Safe and Healthy* and *Assuring fair and high quality of work-life environment for Mining Industry Workers* through Outcome Goal 2.1 *Securing safe and healthy workplaces* and Outcome Goal 3-1 *Ensuring workers have a voice in the workplace*. It will accomplish the following to support MNMSH performance measures:

- MNMSH will continue to conduct all of its regular mandated inspections. Citations resulting from these inspections must be promptly abated by the operator. This is the most effective tool that MSHA possesses to secure safe and healthy work environments in the mining industry.
- MNMSH will continue its Impact Inspection initiative. MNMSH will conduct Impact inspections at 30 mines based on criteria including compliance and accident and injury history. MSHA projects that fewer mines will meet the criteria in FY 2013 than in FY 2012 which indicates improved compliance by mine operators.
- MNMSH will focus on improved impoundment safety by increasing inspection activity at the impoundments classified as high-hazard to continue with the reduction of the 10-year rolling average of the number of high-hazard impoundment failures.
- MNMSH will conduct health sampling at a minimum of 20 percent of mines under its jurisdiction. Sampling will assess the effectiveness of operator dust control and sampling programs through data collection, observations of mining cycle and work practices, interviews, plan reviews, and sampling. The data collected forms the basis of appropriate enforcement actions as well as assuring that mine plans are adequate to protect miners from

## METAL AND NONMETAL MINE SAFETY AND HEALTH

overexposures of respirable silica dust. Increased health resources will also allow MNMSH to explore additional innovative initiatives to target other health hazards, update policy and procedures, and more effectively administer the health program.

- MNMSH will continue work to clear the existing backlog of contested cases before the FMSHRC and prevent a future backlog. MNMSH staff will hold conferences with mine operators to resolve issues and reach settlements. MNMSH will continue to utilize clerical personnel in the districts in support of conference litigation work.
- Miners must have a *Voice in the Workplace* and be free to exercise their right to identify hazardous conditions and request Agency inspections without retaliation or discrimination. Empowering miners to report hazards through the use of the MSHA.gov website, **MSHA's National Hazard Reporting Page** and the 1-800 One Call Does It All phone number, is critical in reducing safety and health risks. MNMSH receives approximately 1,200 phone calls or emails related to hazard complaints per year that require follow-up inspections. MNMSH special investigators will closely monitor, manage, and reduce the time to process miner discrimination complaints and complete investigations of knowing and willful violations. MSHA will continue to demonstrate to miners its commitment to protect their right to report health and safety hazards without fear of retaliation.
- In addition to the annual and follow-up inspections mandated by the Mine Act, MNMSH will conduct other important activities to ensure the health and safety of the miner. These activities include spot inspections of gassy mines such as salt and trona mines at intervals required by the Mine Act, accident investigations (including root cause analysis), spot inspections based on reported injuries and occupational illnesses, and investigations of safety and discrimination complaints made by miners or their representatives.

## METAL AND NONMETAL MINE SAFETY AND HEALTH

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	45,040	45,070	46,471	1,401
11.3	Other than full-time permanent	0	1,293	1,298	5
11.5	Other personnel compensation	1,049	1,340	1,345	5
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>46,089</b>	<b>47,703</b>	<b>49,114</b>	<b>1,411</b>
12.1	Civilian personnel benefits	16,322	16,718	17,161	443
13.0	Benefits for former personnel	19	0	0	0
21.0	Travel and transportation of persons	8,584	7,563	7,592	29
22.0	Transportation of things	2,502	2,598	2,639	41
23.1	Rental payments to GSA	4,384	4,594	4,995	401
23.2	Rental payments to others	5	50	50	0
23.3	Communications, utilities, and miscellaneous charges	967	830	830	0
24.0	Printing and reproduction	87	108	108	0
25.1	Advisory and assistance services	60	63	63	0
25.2	Other services from non-Federal sources	358	513	606	93
25.3	Other goods and services from Federal sources 1/	5,227	5,109	5,109	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	644	529	637	108
26.0	Supplies and materials	1,038	809	821	12
31.0	Equipment	1,358	1,876	1,972	96
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>87,644</b>	<b>89,063</b>	<b>91,697</b>	<b>2,634</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	4,677	4,660	4,660	0
	DHS Services	157	157	157	0
	HHS Services	393	0	0	0
	Services by Other Government Departments	0	292	292	0

# METAL AND NONMETAL MINE SAFETY AND HEALTH

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$188
Personnel benefits	57
One day more of pay	228
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	327
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$800**

**Net Program** **\$1,834**

**Direct FTE** **0**

	<b>Estimate</b>	<b>FTE</b>
<b>Base</b>	<b>\$89,863</b>	<b>597</b>
<b>Program Increase</b>	<b>\$1,834</b>	<b>0</b>



## OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	4,352	4,765	5,416	651
FTE	22	24	24	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 22.

### **Introduction**

In coordination with the Office of the Solicitor, Mine Safety and Health Division and other MSHA program offices, the Office of Standards, Regulations, and Variances (OSRV) develops standards and regulations for the mining industry that protect the safety and health of miners. These standards and regulations establish enforcement requirements for compliance. OSRV works on safety and health rulemaking activities required under the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response (MINER) Act of 2006. OSRV also administers MSHA’s Freedom of Information Act (FOIA) program, and the Information Collection Request function to meet paperwork requirements under the Paperwork Reduction Act of 1995.

OSRV maintains MSHA’s rulemaking docket and is responsible for posting public comments and public submissions at [www.Regulations.gov](http://www.Regulations.gov). OSRV is also responsible for processing and publishing petitions from mine operators for variances from safety standards (Petitions for Modification).

OSRV supports the Secretary’s vision of “*Good Jobs for Everyone*” through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation’s miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

OSRV proposes and promulgates new and improved safety and health standards and regulations on the basis of information submitted to the Secretary by interested parties, representatives of any organization of employers or employees, nationally recognized standards-producing organizations, the Secretary of Health and Human Services (HHS), HHS’s National Institute for Occupational Safety and Health (NIOSH), states or political subdivisions, or on the basis of information developed by the Secretary or otherwise available.

## OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES

In accordance with Executive Orders (E.O.) 12866 and 13563, MSHA performs an analysis of anticipated benefits and costs of each significant regulatory action, develops and publishes MSHA's Semi-Annual Regulatory Agenda and Regulatory Plan, and reviews existing rules to identify regulations that are inconsistent with E.O. policy directives.

In FY 2013, OSRV proposes to improve safety and health conditions in the mining workplace by:

- Reducing health risks through rulemaking by developing a standard to reduce exposure to respirable crystalline silica.
- Addressing hazards in mines by implementing improved technology requirements including proximity detection systems for mobile equipment in underground mines.
- Developing regulatory actions in response to recommendations resulting from investigation of the Upper Big Branch coal mine explosion.
- Improving efficiencies and streamlining the approval process through Part 18.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2008	\$3,180	17
2009	\$3,031	17
2010	\$3,481	17
2011	\$4,352	22
2012	\$4,765	24

### **FY 2013**

MSHA requests \$5,416,000 and 24 FTE for the Office of Standards, Regulations and Variances (OSRV). The request for this budget activity includes an initiative for \$600,000 to support increased regulatory activity. Funding supports MSHA's priority to strengthen regulatory efforts through work on the following:

- A health standard to reduce miners' exposure to respirable crystalline silica.
- A rule that would require proximity detection systems on mobile equipment in underground mines.
- A rule that would revise the Agency's legal identity requirements to allow MSHA to better target the most egregious and persistent violators and more effectively deter future violators.
- A rule that would revise electrical product approval requirements for electrically-operated machines and accessories intended for use in underground gassy mines.
- Additionally, depending on input from stakeholders, MSHA may engage in regulatory actions to improve miners' working conditions in response to the explosion at the Upper Big Branch coal mine, such as decertification, emergency response plans, and the coal dust explosibility meter (CDEM).
- A rule that would revise the existing civil penalty regulations to improve the efficiency of the Agency's efforts and facilitate the resolution of enforcement issues.
- Process requests for variances from safety standards (Petitions for Modification).

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- Process requests for information under the Freedom of Information Act (FOIA) program in accordance with the President's Memorandum on Transparency and Open Government. MSHA has taken additional steps to implement its FOIA program consistent with the President's instructions, including the review of information to be posted on the Agency's website.
- In accordance with the Paperwork Reduction Act of 1995, OSRV will develop supporting statements to accompany new or revised regulations and publish Federal Register notices.

In FY 2013, OSRV expects to process approximately 70 Petitions for Modification and 16 paperwork packages. OSRV will also provide oversight to the processing of approximately 2,600 FOIA requests. OSRV will maintain MSHA's rulemaking docket in addition to a consistent on-line docket, and post public comments and submissions at [www.Regulations.gov](http://www.Regulations.gov).

### **FY 2012**

OSRV will support the Secretary's Outcome Goal of 'Securing safe and healthy workplaces, particularly in high-risk industries' by proposing and promulgating health and safety standards and regulations placed on MSHA's regulatory agenda. In direct support of outcome goals, MSHA will execute a regulatory strategy to eliminate or reduce safety and health hazards in mining.

OSRV will continue to work on two high-priority, comprehensive health standards to reduce miners' exposure to respirable coal mine dust and respirable crystalline silica.

Work will continue on a rule to require underground coal mine operators to equip continuous mining machines with proximity detection systems to prevent crushing and pinning injuries in underground mines. OSRV held four public hearings on this proposal early in FY 2012. OSRV will also continue work on a proposal for requiring proximity detection systems for other mobile equipment in underground mines.

Also in FY 2012, OSRV will revise MSHA's Legal Identity, Civil Penalty, and Pattern of Violations requirements to allow the Agency to better target the most egregious and persistent violators.

OSRV will hold additional public meetings to gather information on effective, comprehensive safety and health management programs for all mines which will enable miners and mine operators to be more proactive in their approach to health and safety matters. This information will supplement information the Agency has received on safety and health management programs.

OSRV will continue to develop a standard that will require operators to examine work areas in underground coal mines for violations of mandatory safety or health standards.

In FY 2012, OSRV expects to process approximately 70 Petitions for Modification and 14 paperwork packages. OSRV will also provide oversight to the processing of approximately 2,400 FOIA requests. OSRV will maintain MSHA's rulemaking docket in addition to a consistent on-line docket, and post public comments and submissions at [www.Regulations.gov](http://www.Regulations.gov).

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Additionally, MSHA reallocated \$300,000 from the Program Administration budget activity to OSRV to provide contractor support to allow MSHA to continue its work on health standards that require complex statistical, technical, and scientific analyses.

### **FY 2011**

MSHA's regulatory agenda in FY 2011 focused on eliminating or reducing serious safety and health hazards. Regulatory action concerning health hazards such as respirable dust and silica required an assessment of the hazards involved, the determination of the relationship between the magnitude of the exposure and the probability of its effects, and the determination of the extent of human exposure before and after application of regulatory controls.

In FY 2011, OSRV published a proposed rule titled "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors." This rulemaking is part of MSHA's comprehensive strategy to lower miners' exposure to respirable coal mine dust and ultimately eliminate black lung. In FY 2011, MSHA held seven public hearings on this rulemaking.

Also in early FY 2011, OSRV published a proposed rule to revise MSHA's requirements for pre-shift, supplemental, on-shift and weekly examinations of underground coal mines. The proposal would assure that underground coal mine operators find and fix violations of mandatory health or safety standards; thereby improving health and safety for miners. In FY 2011, MSHA held five public hearings on this matter.

OSRV also published a proposed rule to revise MSHA's existing regulation for pattern of violations (POV). MSHA determined that the existing regulation does not adequately achieve the intent of the Mine Act whereby the POV provision be used to address operators who have demonstrated a disregard for the safety and health of miners. The proposal would simplify the existing POV criteria, improve consistency in applying the POV criteria, and more adequately achieve the statutory intent. It would also encourage chronic violators to comply with the Mine Act and MSHA's safety and health standards. MSHA held five public hearings on this rulemaking.

OSRV published a proposed rule on Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines and announced four public hearings to be held in FY 2012. This proposal would require underground coal mine operators to equip continuous mining machines (except full-face continuous mining machines) with proximity detection systems. Miners who work near continuous mining machines face pinning, crushing, and striking hazards that have resulted, and continue to result, in accidents involving life threatening injuries and death. The proposal would strengthen the protections for miners by reducing the potential for pinning, crushing, or striking accidents in underground coal mines. OSRV also continued to address proximity detection systems for other mobile equipment in underground mines.

OSRV published a final rule on "Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines." This final rule replaced MSHA's Emergency Temporary Standard

## **OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES**

(ETS) that was published in FY 2010 pursuant to section 101(b) of the Mine Act and adopts the requirements contained in the ETS. Under the final rule, mine operators must maintain the incombustible content of combined coal dust, rock dust, and other dust to at least 80 percent in underground areas of bituminous coal mines.

OSRV worked on a proposed rule, “Criteria and Procedures for Proposed Assessment of Civil Penalties,” which would revise the process for proposing civil penalties. MSHA believes that the procedures for assessing civil penalties can be revised to improve the efficiency of the Agency’s efforts and to facilitate the resolution of enforcement issues. The assessment of civil penalties is a key component in MSHA’s strategy to enforce safety and health standards.

OSRV also continued to work on (1) revising electrical product approval requirements for electrically-operated machines and accessories intended for use in underground gassy mines; and (2) issue a proposed rule to expand the information mine operators would be required to submit to the Agency (legal identity). By expanding the required information, this regulation would allow MSHA to better target the most egregious and persistent violators and more effectively deter future violations by imposing penalties and other remedies on those violators.

OSRV processed approximately 70 Petitions for Modification in FY 2011. OSRV provided oversight to the processing of 2,217 FOIA requests and completed 17 paperwork packages. OSRV also maintained MSHA’s rulemaking docket in addition to a consistent on-line docket, and timely posted public comments and submissions at [www.Regulations.gov](http://www.Regulations.gov).

## OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Office of Standards, Regulations, and Variances</b>				
<b>Strategic Goal 2 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
MSHA-OSRV-01 Number of Final Rules published in Federal Register	1	1	4	4
MSHA-OSRV-02 Percent of FOIA requests that are completed within 20 working days of receipt	80.00%	69.00%	70.00%	70.00%
Number of Pre-proposals	0	1	2	1
Number of Proposed Rules	7	4	5	3
Variances Processed	70	61	70	70
Paperwork Reduction Packages	23	17	14	16

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

In FY 2013, OSRV will support DOL Strategic Goal 2 – “*Ensure workplaces are safe and healthy*” and Outcome Goal 2.1 – “*Secure safe and healthy workplaces, particularly in high-risk industries*” through work on the following:

As part of this regulatory strategy, in FY 2013, OSRV will issue a health standard to reduce miners’ exposure to respirable crystalline silica to reduce occupational lung disease in miners. MSHA will issue a rule incorporating new technology by requiring mine operators to equip shuttle cars, coal hauling machines, continuous haulage systems and scoops with proximity detection systems to address pinning, crushing and striking hazards miners face when working near this equipment.

Additionally, OSRV will continue its regulatory efforts to streamline MSHA’s electrical product approval requirements for electrically-operated machines and accessories intended for use in underground gassy mines. Depending on input from stakeholders and in response to the explosion at the Upper Big Branch coal mine, MSHA may engage in regulatory actions, such as decertification, emergency response plans, and the coal dust explosibility meter (CDEM) to improve miners’ working conditions.

OSRV will continue to process requests for variances from safety standards (Petitions for Modification). OSRV will also continue to process and provide oversight to processing requests for information under the Freedom of Information Act (FOIA) program in accordance with the President’s Memorandum on Transparency and Open Government. MSHA has taken additional

## **OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES**

steps to implement its FOIA program consistent with the President's instructions, including the review of information to be posted on the Agency's website.

In accordance with the Paperwork Reduction Act of 1995, OSRV will (1) develop supporting statements to accompany new or revised regulations; and (2) publish Federal Register notices to notify the public that information collection requirements in existing regulations are being reviewed and request comments. The data shown on the table are for existing paperwork packages. As new rules are developed, additional paperwork packages will be required.

OSRV will continue to post background documents, comments and transcripts for each rulemaking at [www.Regulations.gov](http://www.Regulations.gov).

## OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	2,979	2,917	3,295	378
11.3	Other than full-time permanent	0	10	10	0
11.5	Other personnel compensation	62	71	79	8
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>3,041</b>	<b>2,998</b>	<b>3,384</b>	<b>386</b>
12.1	Civilian personnel benefits	632	605	715	110
13.0	Benefits for former personnel	1	0	0	0
21.0	Travel and transportation of persons	60	60	66	6
22.0	Transportation of things	0	0	0	0
23.1	Rental payments to GSA	203	212	259	47
23.2	Rental payments to others	27	27	27	0
23.3	Communications, utilities, and miscellaneous charges	2	12	12	0
24.0	Printing and reproduction	10	9	49	40
25.1	Advisory and assistance services	105	325	325	0
25.2	Other services from non-Federal sources	91	236	236	0
25.3	Other goods and services from Federal sources 1/	154	173	173	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	5	52	88	36
26.0	Supplies and materials	7	24	28	4
31.0	Equipment	14	32	54	22
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>4,352</b>	<b>4,765</b>	<b>5,416</b>	<b>651</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	148	146	146	0
	DHS Services	6	6	6	0
	Services by Other Government Departments	0	21	21	0

# OFFICE OF STANDARDS, REGULATIONS, AND VARIANCES

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$14
Personnel benefits	2
One day more of pay	16
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	19
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$51**

**Net Program** **\$600**

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>\$4,816</b>	<b>24</b>
<b>Program Increase</b>	<b>\$600</b>	<b>0</b>



**OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL  
ENFORCEMENT AND INVESTIGATIONS**

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	6,221	7,103	6,732	-371
FTE	45	50	55	5

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 46

**Introduction**

The Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI) (formerly the Office of Assessments), created in February 2012, is responsible for all aspects of MSHA's civil penalty program, including assessment of penalties, processing mine operator hearing requests when operators file civil penalty contests with the Federal Mine Safety and Health Review Commission (FMSHRC), accounting for all penalty cases in litigation before the Commission and the federal courts, and collecting and accounting for penalty payments. The OAASEI administers the Mine Act, MINER Act, mine safety and health standards pertaining to civil penalty assessments, and special investigations. Civil penalties serve to encourage compliance and promote a safe and healthy workplace for miners. The Technical Compliance and Investigation Office provides oversight of the investigation process involving Section 105(c) miner discrimination complaints and Section 110(c) knowing or willful criminal violations. The OAASEI coordinates MSHA's Pattern of Violations (POV) program which is responsible for identifying mines exhibiting a potential POV as described in Section 104(e) of the Mine Act. The office is also responsible for the accountability functions that ensure MSHA's enforcement policies and procedures are carried out effectively and appropriately, functions that have been enhanced by placing the activity within a program area focused on enforcement, but independent of the mine inspection program areas.

The OAASEI supports the Secretary's strategic vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

In FY 2013, the OAASEI will employ the following strategies to enhance worker safety and foster compliance through worker education and worker voice:

## OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT AND INVESTIGATIONS

- **Increasing Inspection and Enforcement Effectiveness** – The OAASEI will conduct the first reviews under the new POV regulations of violators exhibiting a POV and incorporate review criteria that identify violators who fail to prevent conditions that contribute to fatal accidents.
  
- **Increasing Efforts to Protect Miners from Discrimination** – The OAASEI will expedite investigations of discrimination complaints and enhance miners’ knowledge regarding their rights and responsibilities under the Mine Act. This will include the development of publications and training materials that clearly address miners’ rights.

In proposing civil penalties, the office considers the following statutory criteria:

- Size of the mining operation
- History of previous violations
- Degree of operator negligence
- Gravity of the violation
- Good faith effort to achieve rapid compliance

The OAASEI uses a regular assessment formula based on these criteria to determine the amount of the civil penalty. The citation, which includes the inspector's evaluation, is the basis for the proposed assessment. The office may elect not to use the regular assessment formula depending on the conditions surrounding the violation. The OAASEI considers special, higher assessments for severe violations -- those which cause death, injury or illness, or result from the operator's unwarrantable failure to comply, or are evaluated as “flagrant violations” as defined in the MINER Act. Under the regular and special assessment formulas, a violation can be assessed a civil penalty up to \$70,000 for each citation or order issued. MSHA can assess flagrant violations a maximum penalty of \$220,000.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2008	\$6,134	51
2009	\$6,134	51
2010	\$6,233	51
2011	\$6,221	46
2012	\$7,103	50

### **FY 2013**

MSHA requests \$6,732,000 and 55 FTE for the OAASEI activity. This request also reflects a reduction of \$445,000 and an increase of five FTE for contractor conversion.

## OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT AND INVESTIGATIONS

In FY 2013, the OAASEI will continue the following efforts:

- Assess civil penalties for all violations of the Mine Act consistently and in accordance with statutory criteria.
- Assess those penalties at a level that will encourage compliance
- Account for all penalty cases in litigation before the Commission
- Collect and account for penalties paid
- Conduct required screening for POVs
- Conduct accountability reviews
- Receive and process hearing requests

In support of '*Voice in the Workplace*,' the OAASEI will ensure that miner discrimination complaints are investigated and resolved in a timely manner, with specific goals to increase the percentage of investigations of miner discrimination that are completed within 60 days of receipt and to increase the percentage of miner requests for temporary reinstatement that are completed within 20 days of receipt.

MSHA anticipates that the OAASEI will receive and process approximately 20,000 phone calls and pieces of mail each year. These involve inquiries into all aspects of the following: civil penalty assessment, litigation and collection process, hearing requests, Treasury disputes, bankruptcy notices, court decisions, and other topics. The OAASEI will receive and process the following in a timely manner:

- Approximately 5,000 decisions on contested violations each year that are currently processed, on average, within 11 days of receipt.
- Approximately 150 Section 105(c) discrimination investigations and Section 110(c) knowing and willful investigation cases per year.
- Approximately 30,000 checks for payment of civil penalties per year. The payments are applied, on average, within seven days of receipt.
- Approximately 8,000 mine legal identity forms per year. MSHA uses legal identities to research mine ownership to ensure that civil penalties are assessed against the party responsible for the cited violations. In FY 2013, the OAASEI will continue to ensure it processes the legal identities within seven days of receipt.

### **FY 2012**

In FY 2012, the OAASEI will conduct timely reviews of Section 105(c) discrimination complaints and investigation programs to identify potential improvements in the MSHA and Office of the Solicitor (SOL) investigation and review processes to determine if any improvements are needed in educating miners on their rights under the Mine Act. The office will implement changes to the program based on the results of these reviews.

The OAASEI will conduct at least one screening for POVs. The office will also continue to work with mine operators identified to have a potential POV to develop and implement ongoing

## **OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT AND INVESTIGATIONS**

comprehensive safety and health management programs targeting the conditions which most frequently contribute to fatal accidents.

The OAASEI will conduct accountability reviews to ensure that management controls are in place and effective enforcement levels adhere to MSHA's policies and procedures.

The OAASEI will initiate corrective actions in response to recommendations resulting from a review conducted by the Office of the Inspector General (OIG) regarding MSHA's civil penalty collection practices.

During FY 2012, the OAASEI will continue the following: assess civil monetary penalties for all violations of the Mine Act consistently and in accordance with statutory criteria; timely assess those penalties at a level that will encourage compliance; account for all penalty cases in litigation before the FMSHRC, as well as collect and account for penalties paid.

The OAASEI is in the process of replacing the manual process of applying civil penalty payments from mine operators for civil penalties with an automated process. These enhancements will increase the accuracy and timeliness of civil penalty processing. This will allow for faster referral of delinquent debt to the Department of the Treasury for collection. The resultant cost savings will allow MSHA to devote additional resources to its "Scofflaw" program and aggressively pursue legal sanctions against mine operators who continually fail to pay their civil penalties and who have inadequate health and safety management programs.

The OAASEI will continue to receive and process approximately 8,000 hearing requests annually. The cases are docketed, on average, within seven days of receipt. Upon receipt of a hearing request, the Secretary has 45 days in which to file a petition for assessment of civil penalty with the FMSHRC. The processing of a hearing request is a three-part procedure:

- The OAASEI records the contest action in MSHA's Standardized Information System (MSIS);
- The enforcement district prepares the litigation packet; and
- The Conference Litigation Representative (CLR), together with the SOL, prepares and files the petition.

### **FY 2011**

The Office of Assessments (Office) assessed civil monetary penalties for all violations of the Act consistently and in accordance with statutory criteria, timely assessed those penalties at a level that encouraged compliance and accounts for all penalty cases in litigation before the FMSHRC, and continued to collect and account for penalties paid. MSHA believes that the substantial increase in civil penalties established in FY 2007 has continued to result in mine operators taking additional steps to prevent health and safety conditions that result in violations. Consequently, MSHA assessed not less than 157,000 violations totaling \$146,000,000 in FY 2011.

## **OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT AND INVESTIGATIONS**

The Office implemented enhancements to the civil penalty assessment and payment processing system. The previous modifications to the system replaced the current civil penalty notification process. The Office also deployed a Statement package which includes: a new Notice of Proposed Assessment and Statement of Account that provides supplementary information on the status of a company's civil penalties, a Remittance Coupon included with the Statement and designed to be returned to MSHA by the operator with the payment coupon, and a Notice of Contest Rights and Instructions to be filed when the operator contests a violation.

In addition, the Office continued to work with the FMSHRC and Treasury Department's Financial Management Services to develop enhancements to their IT systems to streamline the docketing, decision, and debt referral processes. The Office collaborated with SOL and FMSHRC to support the contested penalty case backlog by processing and recording all hearing requests and citation decisions that are received from the FMSHRC.

The Office conducted one POV screening and revised the screening criteria and procedures for identifying mines exhibiting a potential pattern of violations. The new procedures include more meaningful corrective action programs and measures to help ensure long-term compliance on the part of mine operators. A mine placed on a potential POV must meet more stringent goals to avoid the sanctions of a POV.

The Office worked with mine operators who were found to have a potential pattern of violations to develop and implement ongoing comprehensive safety and health management programs that target the conditions at each mine that result in violations. Also, the Office worked with SOL in drafting and issuing revisions to the POV regulations. The new screening criteria and procedures, as well as the proposed POV rule, resolved a recommendation that the OIG made as a result of their FY 2010 review of the program.

The Office revised the citation/order form that inspectors use to cite health and safety violations. These forms have been in effect since 1977 with no substantive revisions. Contested violations significantly increased after new penalty regulations were implemented in FY 2007. The new citation forms reduce the subjectivity and number of factors used to generate civil penalties from 1,100 different possibilities to 54, which results in an anticipated reduction in the contest rate.

In FY 2011, the Office worked toward improving the timeliness of Section 105(c) investigations of miner discrimination complaints and investigations of miner requests for temporary reinstatement.

**OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL  
ENFORCEMENT AND INVESTIGATIONS**

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Office of Assessments, Accountability, Special Enforcement and Investigations</b>				
<b>Strategic Goal 2 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
MSHA-04 Number of Pattern of Violation screening /1	1	1	1	TBD
MSHA-05 Establish baseline data and goals for measuring compliance levels among mines that have received potential pattern of violation notices	--	--	TBD	--
MSHA-AS-01 Percent of civil penalties assessed under the regular formula within 60 days of issuance	85.00%	84.00%	85.00%	85.00%
MSHA-AS-02 Percent of civil penalties special assessed within 300 days of issuance	80.00%	86.00%	--	--
MSHA-AS-02 Percent of civil penalties special assessed within 225 days of issuance	--	--	80.00%	80.00%
Number of Violations Assessed	165,000	157,000	163,000	157,000
Penalties assessed (whole dollars)	\$129,000,000	\$146,000,000	\$128,000,000	\$146,000,000

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*/1 The FY 2013 target will be dependent on the Final Rule for Pattern of Violations.*

In FY 2013, the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI) will work towards the Departmental Strategic Goals and Outcome Goals: *Ensure Workplaces in the Mining Industry are Safe and Healthy, and Ensure Mining Industry Workers Have a Voice in the Workplace.*

OAASEI believes that the substantial increase in civil penalties established in FY 2007 will continue to result in mine operators taking additional steps to prevent health and safety conditions that result in violations. The OAASEI anticipates the mining industry to react to MSHA program initiatives, inspections, and investigations by preventing the conditions that result in violations of health and safety standards, thereby reducing the number of violations cited and civil penalties assessed. Consequently, MSHA estimates that it will assess 157,000 violations totaling \$146,000,000 in FY 2013, fewer penalties than were assessed in FY 2010 and FY 2011.

## **OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT AND INVESTIGATIONS**

OAASEI will conduct the required screening for POV and revise the screening criteria and procedures for identifying mines exhibiting a potential pattern of violations. The FY 2013 target will be determined once the Final Rule is published. The new procedures include more meaningful corrective action programs and measures to help ensure long-term compliance on the part of mine operators. A mine placed on a potential POV must meet more stringent goals to avoid the sanctions of a POV.

OAASEI will work with mine operators who are found to have a POV to develop and implement ongoing safety and health management programs that target the conditions at each mine that result in violations. Also, MSHA will work with SOL in drafting and issuing revisions to the POV regulations. MSHA is proposing revisions to the civil penalty regulations to simplify the penalty criteria, provide for more objectivity in enforcement, which could lead to earlier resolution of enforcement issues.

OAASEI will revise the citation/order form inspectors use to cite health and safety violations. These forms have been in effect since 1977 with no substantive revisions. Contested citations significantly increased after new penalty regulations were implemented in FY 2007.

OAASEI will bolster its special investigations program to protect miners' rights to a safe, healthy and discrimination free workplace. In FY 2013, MSHA will continue to review the special investigations program and consider areas of improvement. MSHA will also continue to improve the timeliness of Section 105(c) and Section 110 investigations.

**OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL  
ENFORCEMENT AND INVESTIGATIONS**

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	3,382	4,035	4,065	30
11.3	Other than full-time permanent	0	25	25	0
11.5	Other personnel compensation	104	100	100	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>3,486</b>	<b>4,160</b>	<b>4,190</b>	<b>30</b>
12.1	Civilian personnel benefits	948	1,105	1,113	8
13.0	Benefits for former personnel	2	0	0	0
21.0	Travel and transportation of persons	47	54	9	-45
22.0	Transportation of things	10	0	0	0
23.1	Rental payments to GSA	493	515	551	36
23.2	Rental payments to others	3	2	2	0
23.3	Communications, utilities, and miscellaneous charges	199	188	153	-35
24.0	Printing and reproduction	4	4	4	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	526	269	29	-240
25.3	Other goods and services from Federal sources 1/	397	510	510	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	28	196	91	-105
26.0	Supplies and materials	12	16	16	0
31.0	Equipment	66	84	64	-20
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>6,221</b>	<b>7,103</b>	<b>6,732</b>	<b>-371</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	382	381	381	0
	DHS Services	15	15	15	0
	Services by Other Government Departments	0	114	114	0

**OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL  
ENFORCEMENT AND INVESTIGATIONS**

**CHANGES IN FY 2013**

(Dollars in Thousands)

**Activity Changes**

**Built-In**

To Provide For:

Costs of pay adjustments	\$15
Personnel benefits	4
One day more of pay	19
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	36
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$74**

**Net Program** **-\$445**

**Direct FTE** **0**

	<b>Estimate</b>	<b>FTE</b>
<b>Base</b>	<b>\$7,177</b>	<b>50</b>
<b>Program Decrease</b>	<b>-\$445</b>	<b>0</b>



## EDUCATIONAL POLICY AND DEVELOPMENT

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	38,148	38,325	31,682	-6,643
FTE	135	149	141	-8

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 136.

### **Introduction**

The Educational Policy and Development (EPD) budget activity provides unified and comprehensive direction on all matters related to MSHA's role in education and training activities in the mining industry. Under the Mine Act, EPD is responsible for developing and implementing educational policy and programs to train government, industry, and labor personnel to recognize, eliminate, and prevent hazardous conditions in the mining environment.

EPD manages and operates the National Mine Health and Safety Academy (Academy) located in Beckley, West Virginia. The Academy trains federal mine inspectors to provide MSHA with a skilled enforcement workforce. The Academy also provides professional education and training services and consultation to all members of MSHA and the mining community.

Educational Field Services (EFS) training specialists review training plans, monitor and assist industry instructors to develop and improve their skills, and assist mine operators with their health and safety programs. EFS specialists also distribute educational materials and provide assistance to the miners to better understand their rights and responsibilities under the Mine Act. These efforts will ensure that miners have a voice in the workplace.

EPD's Small Mines Office (SMO) was renamed the Small Mines Consultation Program (SMCP) to ensure small mine operators understand the focus of the program. SMCP assists small mines (mines with five or fewer employees) with limited resources to develop effective safety, health and training programs. The SMCP offers on-site safety and health assistance to small mine operators who request the expertise of safety and health professionals to assist with hazard identification and correction. Generally, these operators do not have the resources to provide their own full-time health and safety expertise, or to purchase the services of consultants. The goal is to improve health and safety for miners working at small mines.

Both the EFS and SMCP programs work in tandem with MSHA's enforcement efforts, providing hazard identification, assessment, and outreach and training to workers and mine operators, both big and small.

EPD administers MSHA's State Grants Program which provides funds to assist states in mine safety related activities as provided in Section 503 of the Mine Act. This program supports training in 49 states and the Navajo Nation. The grantees provide safety and health training and retraining for miners.

## EDUCATIONAL POLICY AND DEVELOPMENT

MSHA also manages the Brookwood-Sago Mine Safety Grants program which was established through a provision in the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). These grants provide funds for mine safety and health training and education programs for workers and mine operators, to better identify, avoid, and prevent unsafe working conditions in and around mines.

EPD supports the Secretary's vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

Training plays a critical role in preventing deaths, injuries, and illnesses on the job. By providing effective training, miners are able to recognize possible hazards and understand the safe procedures to follow. MSHA will continue its increased visibility and emphasis on training because it is critically important to making progress in reducing the number of injuries and fatalities. This emphasis includes the development and distribution of materials, as well as targeted safety sweeps to educate and assist miners and operators to improve mine safety.

MSHA assists the Joseph A. Holmes Safety Association, a nonprofit association created in 1926 to promote health and safety in the mining industry, by providing technical assistance in coordinating efforts through grassroots safety and health programs and activities for the mining community. This program recognizes exemplary safety records both corporately and individually and presents nationally recognized awards.

### Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$36,239	148
2009	\$38,605	148
2010	\$38,605	159
2011	\$38,148	136
2012	\$38,325	149

# EDUCATIONAL POLICY AND DEVELOPMENT

## FY 2013

MSHA requests \$31,682,000 and 141 FTE for the EPD activity. This request includes the following reductions:

- **\$1,500,000 and 5 FTE - Mine Academy Infrastructure.**
  - EPD anticipates a reduction in the development and distribution of printed and multimedia training products provided to the mining industry. Additionally, at this funding level, there will be deferment of capital improvement and infrastructure repairs at the Academy in order to reallocate funding to higher priority needs.
- **\$303,000 and 3 FTE - Small Mines Consultation Program.**
  - This modest cut to SMCP will not result in a reduction in workload and performance, which is scheduled to increase in FY 2013 as enhanced training and field coordination reforms started in FY 2012 take effect. However the reduction is necessary to allow MSHA to prioritize and reposition its resources in support of the enforcement functions.
- **\$5,000,000 and 0 FTE - State Grants Program**
  - To meet the demand of the agency's higher priorities of enforcement activities, MSHA will reallocate \$5,000,000 from grant funds in the FY 2013 budget and shift the responsibility for training back to mine operators. MSHA anticipates that some states will continue providing services, and where services are reduced or eliminated, operators will become more actively involved with their training or find other resources to provide training. EPD anticipates the State Grants Program will train approximately 80,000 miners. This corresponds directly to the proposed reduction in funding.

In the wake of the Upper Big Branch (UBB) accident and investigation MSHA shifted priorities towards strengthening its enforcement programs. The FY 2013 request prioritizes activities MSHA performs and applies limited budgetary resources to those areas where they will have the greatest impact. Every budget activity supports functions that prevent death, disease, and injuries from mining, but MSHA considers effective enforcement a top priority and proactive strategy to ensure workplaces in the mining industry are safe and healthy.

In FY 2013, EPD will foster a culture of improving safety and health conditions in the mining workplace through the following strategies:

### **Maintain education, compliance assistance and outreach to the mining industry.**

- The Academy plans to host various seminars and conferences, including the Training Resources Applied to Mining (TRAM) conference that attracts more than 500 attendees annually. EPD will continue its efforts to provide outreach products to the mining industry, which includes updated health and safety audiovisual materials.

## EDUCATIONAL POLICY AND DEVELOPMENT

- EPD will provide approximately 65,000 hours of assistance to the mining industry. The total hours include 25,000 hours of compliance assistance and 40,000 hours of injury and illness prevention training activities.
- EPD will continue its onsite monitoring of approved instructors to ensure they are providing qualitative, effective health and safety training to miners. EFS training specialists will continue to review training plans and evaluate training programs and instructors as required by the Mine Act. These specialists will also participate in special emphasis programs that address safety and health hazards in coal and metal and nonmetal mines.
- EPD anticipates distributing 6,000,000 publications and training materials, including materials on Miners' Rights.

### **Expand MSHA's distance learning program.**

- EPD will expand its distance learning curriculum to add 12 additional online courses for a total of 69 online training courses designed for entry-level and journeymen inspectors.
- EPD will continue developing online media compliance information for the regulated community.
- EPD will continue to manage MSHA's State Grants Program in which the grantees provide safety and health training and retraining for miners.
- The Academy will continue to provide professional instruction for MSHA inspectors and the mining community in support of MSHA's workforce development. Based on projected attrition rates within the Coal and Metal and Nonmetal enforcement programs, EPD estimates that 18 entry level inspector groups will begin their training in FY 2013. EPD will provide MSHA managers and supervisors with training to enhance their supervisory skills. The Academy anticipates conducting 1,350 course days of training in FY 2013.
- EPD will evaluate the effectiveness of training instructors, training materials and mine-operator training plans, as required under Title 30 CFR Part 46 and Part 48. The EFS will evaluate and monitor approximately 675 instructors to assess the effectiveness of training provided to miners. EPD will also assess how the mine operators and contract trainers address the specific hazards and safety issues.
- EPD will also make improvements to its Mine Simulation Laboratory to provide a more realistic training experience for MSHA enforcement personnel and the nation's miners. In FY 2013, EPD plans to install a communication and tracking system to better prepare mine rescue team members in the event of a mine emergency. To enhance the learning experience, EPD will incorporate virtual reality training to supplement the experiences gained in the Mine Simulation Laboratory.

## **EDUCATIONAL POLICY AND DEVELOPMENT**

### **FY 2012**

In FY 2012, EPD is expanding its distance learning program by an additional 10 online courses developed for use by MSHA's entry-level inspectors, bringing the number of available courses to 57. The Academy will also create additional online journeyman-level inspector classes and new programs designed for the mining industry.

EPD will continue development of its pilot project to identify viable mobile devices and software applications that can improve efficiencies and enhance training services provided by EPD staff. EPD anticipates deploying a mobile application for the mining industry which will increase the knowledge of miners' rights and voice in the workplace.

The Academy will continue to provide professional instruction for MSHA inspectors and the mining community. The Academy anticipates conducting 1,340 course days of training. During FY 2012, it is anticipated that 24 entry-level inspector groups will attend training at the Academy. The Academy also projects distributing 6,000,000 publications and training materials.

EPD will continue to manage MSHA's State Grants Program and the Brookwood-Sago Mine Safety Grant Program. In FY 2012, the State Grants Program will train approximately 180,000 miners in 49 states and the Navajo Nation.

EFS field training specialists will continue to conduct training program analysis, review training plans, and provide qualification examinations for miners. Improvements will be made in a newly revamped SMCP which provides assistance to small mining operations. SMCP staff will be more strategically located in relation to small mines, increasing their access to the small mining operations and enhancing the level of consultation services provided. The EFS staff and SMCP will provide 60,000 hours of assistance to the mining industry. The total hours includes 21,600 hours of compliance assistance and 38,400 hours of injury and illness prevention training activities. Due to attrition within SMCP staff, new personnel are being recruited and will receive 23 weeks of comprehensive classroom training. EPD will also participate in special emphasis programs which will address safety and health hazards in coal and metal and nonmetal mines.

### **FY 2011**

EPD provided a unified, comprehensive direction on matters relating to MSHA's role in education and training activities. EPD monitored instructors and evaluated the effectiveness of mine safety and health training programs. EPD managed the development and delivery of quality education and training programs, such as inspector training, industry training, and outreach initiatives.

During FY 2011, EPD accomplished the following:

- Provided 70,639 hours of compliance assistance
- Provided 1,633 course days of training to MSHA and industry
- Developed 11 new online courses – 10 entry level and 1 journeyman inspector training
- Distributed 6,000,000 publications to the mining industry

## EDUCATIONAL POLICY AND DEVELOPMENT

- Conducted Part 50 audits at 37 mines
- Conducted Part 50 training for 31 enforcement personnel

Additionally, the Academy conducted training for 13 entry level inspector groups. EPD provided approximately 50 on-site training sessions for inspection personnel at various field locations.

As a result of the Upper Big Branch accident investigation, EPD identified training inadequacies in the Southern Appalachian Region, such as mine operators are not properly administering or providing adequate training to new miners or miners transferred from one location to another.

EPD developed a national-level pilot program to ensure both miners and contractors received adequate Part 48 training in every Coal and MNM district.

In 2011, EPD updated the Academy Mine Simulation Lab to include a new realistic command center for use with mine rescue training. Approximately 2,200 mine rescue team members participated in Mine Rescue training at the Academy. The Academy personnel participated in a Coal Mine Emergency Response Development (MERD) exercise which consisted of 235 MSHA employees.

MSHA's State Grants Program provided annual refresher, new miner and first aid training for approximately 225,000 miners, which exceeded the FY 2011 target of 180,000.

In FY 2011, EPD managed the Brookwood-Sago Mine Safety Grant Program. This program provided funding of \$1,000,000 for eight grants toward the development and implementation of training programs and training materials for mine emergency preparedness and mine emergency prevention in underground mines.

## EDUCATIONAL POLICY AND DEVELOPMENT

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Educational Policy and Development</b>				
<b>Strategic Goal 2 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
<b>Strategic Goal 3 - Assure fair and high quality work-life environments</b>	--	--	--	--
<b>Outcome Goal 3.3 - Ensure worker voice in the workplace</b>	--	--	--	--
MSHA-EPD-01 Compliance Assistance Hours Provided /1	65,000	70,639	60,000	65,000
Injury and Illness Prevention Hours Provided /2	--	--	38,400	40,000
MSHA-EPD-04 Number of new online courses	10	11	10	12
MSHA-EPD-05 Number trained through State Grant Program /3	180,000	225,000	180,000	80,000
MSHA-EPD-06 Number of approved instructor evaluations	--	--	675	675
Publications Distributed	6,000,000	6,000,000	6,000,000	6,000,000
<b>Course Days of Training:</b>				
MSHA-EPD-02 Course days of training provided to MSHA	1,100	1,399	1,200	1,200
MSHA-EPD-03 Course days of training provided to industry	275	234	140	150
<b>Total</b>	<b>1,375</b>	<b>1,633</b>	<b>1,340</b>	<b>1,350</b>

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*Footnotes:*

/1 The reduction of the FY 2012 target from the FY 2011 results is the effect from reduction in staff. Compliance assistance hours have been redirected to accurately reflect for time spent in each activity.

/2 The number reflects the breakout of the injury and illness prevention compliance measures included from the **total** compliance assistance hours (MSHA-EPD-01).

/3 The FY 2013 target reflects a reduction in the number trained due to a reduction in the State Grant Program.

EPD's workload measures help determine the program's success in supporting the Departmental Strategic Goals, Outcome Goals, and MSHA's Priority Performance Measures: *Ensure*

## EDUCATIONAL POLICY AND DEVELOPMENT

*Workplaces in the Mining Industry are Safe and Healthy, Ensure Mining Industry Workers have a Voice in the Workplace and Modernize Training* through the following:

The “Academy Course Days of Training” measure indicates the amount of time spent training a variety of government and mining personnel, (i.e. MSHA employees, mine operators and supervisors, etc). The inspector workforce receives initial and refresher training to conduct effective inspections. This training is critical to maintain a highly skilled workforce capable of addressing the potential health and safety hazards found in mines. EPD conducts training for industry and labor unions on safety issues such as ventilation, electrical, fire, geological hazards, mine rescue, health issues (i.e. dust and noise) and mining disciplines. Additionally, the Academy instructor training is multiplied throughout the mining industry.

In FY 2013, EPD’s field components will provide 65,000 hours of assistance to the mining industry. The total hours includes 25,000 hours of compliance assistance and 40,000 hours of injury and illness prevention training activities. The primary methodology that EPD prevent injury and illness in the Nation’s mines is through training. These activities include: monitor instructors; establish qualification and certification; revise training plans; and customize appropriate training workshops and training analysis *i.e. TMD (Training Makes a Difference); Train the Trainer Workshops; JTA (Job Task Analysis)*. EPD will focus on the development and implementation of our Nation’s mine and miners health and safety programs by providing operators with legal identification numbers, initial filing of training plans, monitor instructors; establish qualification and certification; and customize appropriate training plans, workshops and revisions; conduct workplace examinations, hazard recognition and to point out other non-compliant conditions.

EPD will continue to expand its distance learning program in FY 2013 by developing 12 additional online courses (10 entry-level and 2 journeymen level inspector courses).

EPD will continue to manage quality education and training programs and policies including inspector training programs, mining industry training and outreach, and the Brookwood-Sago Grants Program. With a \$5,000,000 reduction in grant funding, EPD anticipates the State Grants Program will provide quality training in FY 2013 for approximately 80,000 miners.

EPD will produce and distribute 6,000,000 publications throughout the year. These publications advise miners and those who train miners of potential health and safety hazards, miners’ rights as workers, and opportunities for training. These publications are distributed in the various formats, i.e. DVDs, pamphlets, training manuals, posters, etc.

## EDUCATIONAL POLICY AND DEVELOPMENT

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	13,034	12,197	12,073	-124
11.3	Other than full-time permanent	0	31	31	0
11.5	Other personnel compensation	467	307	308	1
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>13,501</b>	<b>12,535</b>	<b>12,412</b>	<b>-123</b>
12.1	Civilian personnel benefits	3,938	3,638	3,608	-30
13.0	Benefits for former personnel	5	0	0	0
21.0	Travel and transportation of persons	1,057	970	965	-5
22.0	Transportation of things	501	581	581	0
23.1	Rental payments to GSA	548	572	594	22
23.2	Rental payments to others	1	1	1	0
23.3	Communications, utilities, and miscellaneous charges	753	1,192	1,192	0
24.0	Printing and reproduction	212	294	294	0
25.1	Advisory and assistance services	65	150	150	0
25.2	Other services from non-Federal sources	3,807	3,869	2,869	-1,000
25.3	Other goods and services from Federal sources 1/	1,475	1,414	1,414	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	799	1,469	1,169	-300
26.0	Supplies and materials	857	1,630	1,429	-201
31.0	Equipment	1,188	569	563	-6
41.0	Grants, subsidies, and contributions	9,441	9,441	4,441	-5,000
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>38,148</b>	<b>38,325</b>	<b>31,682</b>	<b>-6,643</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,262	1,260	1,260	0
	DHS Services	19	19	19	0
	HHS Services	9	135	135	0

# EDUCATIONAL POLICY AND DEVELOPMENT

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$48
Personnel benefits	13
One day more of pay	58
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	41
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$160**

**Net Program** **-\$6,803**

**Direct FTE** **-8**

	Estimate	FTE
<b>Base</b>	<b>\$38,485</b>	<b>149</b>
<b>Program Decrease</b>	<b>-\$6,803</b>	<b>-8</b>

## TECHNICAL SUPPORT

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	31,031	33,613	33,791	178
FTE	196	204	204	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 199.

### **Introduction**

The Technical Support budget activity provides engineering and scientific expertise to MSHA and the mining industry. It conducts field and laboratory forensic investigations to resolve technical problems associated with implementing the Mine Act and MINER Act; administers a fee program at the Approval and Certification Center (ACC) in Triadelphia, WV, to approve equipment, materials, and explosives for use in mines; collects and analyzes data relative to the cause, frequency, and circumstances of accidents, injuries, illnesses, and occupational diseases; and evaluates new technology for potential to enhance miners' safety and health.

Technical Support's responsibilities include the following:

- Approving and certifying equipment, instruments, materials, explosives, and personal protective apparatus that can be used in mines and performing audits of previously approved products to ensure they have the same standard as when MSHA initially granted approval;
- Providing specialized scientific and engineering expertise for MSHA enforcement through mine visits as well as forensic field and laboratory investigations that address technical problems encountered in implementing the Mine Act and the MINER Act;
- Participating in and providing leadership in mine emergency response efforts, including providing and managing on-site analytical equipment, communications links, and other sophisticated equipment essential to critical decisions in rescue/recovery operations;
- Investigating problems of compliance with safety and health standards, and recommending solutions to MSHA and stakeholders;
- Providing analyses of existing environmental conditions and projections of future technological developments;
- Conducting in-depth studies to define true causes of accidents, injuries, or occupational illnesses, determining trends and impact, and recommending improvements and solutions to MSHA;
- Investigating new communication and tracking technology products and developing programs to deploy products with potential to improve miners' health and safety; and
- Providing scientific and engineering technical expertise in the development of standards and regulations.

Technical Support conducts these activities through cooperative efforts with other MSHA personnel, including Coal Mine Safety and Health (CMSH) and Metal and Nonmetal Mine Safety and Health (MNMSH) inspectors and specialists, and Program Evaluation and

## TECHNICAL SUPPORT

Information Resources, Educational Policy and Development, and the Office of Standards, Regulations, and Variances personnel.

Technical Support supports the Secretary's vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
- Strategic Goal 3: Assure fair and high quality work-life environments
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
- High Priority Performance Goal: Reduce the mining fatality rate by five percent per year based on a rolling five-year average.

Technical Support will improve safety and health conditions in the mining workplace through the following activities:

- Foster the development of more advanced communication and tracking and other technologies to be used underground and in mine emergency situations.
- Work towards the implementation of proximity/collision avoidance technology to protect miners in a wide vicinity of mining activities including continuous mining machine, shuttle cars, feeder breakers, and conveyor belts.
- Continue improving impoundment/dam safety by conducting inspections of high-hazard potential sites.
- Continue targeting the most common causes of fatal accidents in support of the fatality and disaster prevention programs by continuing to assist CSMH and MNMSH enforcement in accident investigations in the field and by analyzing fatal accident data.
- Continue mine emergency operations upgrades and improvements.
- Continue cooperative efforts with CSMH and MNMSH in developing materials and advancing the "Rules to Live By" initiatives.
- Provide engineering and technical assistance to MSHA and the mining industry.
- Conduct field investigations and laboratory analyses and studies to develop solutions to specific problems to assist enforcement personnel and mine operators in achieving compliance with federal regulations intended to protect the health and safety of miners.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2008	\$29,476	200
2009	\$30,117	200
2010	\$30,642	200
2011	\$31,031	199
2012	\$33,613	204

# TECHNICAL SUPPORT

## FY 2013

MSHA requests \$33,791,000 and 204 FTE for the Technical Support budget activity to provide technical expertise for field investigations, engineering plan reviews, and litigation support. Technical Support will also participate in new regulatory rulemaking to eliminate or reduce safety and health hazards in mining. Technical Support will continue to provide training to MSHA enforcement personnel on the use of the Continuous Personal Dust Monitors (CPDMs).

In FY 2013, Technical Support will:

- Continue to approve and certify mine equipment, materials, instruments, explosives and respirators with a focus on reducing backlogs and evaluating the safe design of seals, mining impoundments, mine ventilation systems, and ground control.
- Provide assistance to enforcement personnel in development, testing and approval of MINER Act requirements for wireless communication and electronic tracking systems, refuge alternatives, and fire resistant conveyor belts used in underground mines.
- Continue the Repair Shop program to document audits of permissible equipment and machines rebuilt to approval specifications.
- Analyze fatal accident data in support of the fatality and disaster prevention program with a focus on prevention of surface haulage accidents. Technical Support will use performance brake testers to analyze truck braking systems, a consistently leading cause of surface haulage accidents.
- MSHA plans to complete all requirements for achieving accreditation for the National Air and Dust Laboratory (NADL) rock dust sampling function. To meet accreditation requirements from an outside accrediting body, Technical Support will upgrade existing laboratory robots to perform quality assurance and quality control tests. Also, as part of these requirements, newly hired Quality Assurance Managers will perform and document quality assurance and control testing of rock dust sampling.

The FY 2013 request includes the following initiatives:

- ACC Fees -- MSHA proposes an increase to its reimbursable budget authority for mining equipment certification fees from \$1,499,000 to \$2,499,000. The increase in fees will capture overhead costs that were not previously part of the formula in calculating the current fee structure. Examples include laboratory maintenance; information technology systems maintenance; additional building and equipment depreciation; employee training; etc. MSHA will conduct a thorough analysis of all related annual costs for a revised fee structure.
- Rock Dust Analysis Fees -- MSHA requests reimbursable budget authority to implement a new fee structure for sample analyses processed at the NADL. MSHA requests this authority to recover costs of providing this service to mine operators. MSHA recognizes

## TECHNICAL SUPPORT

the need to balance mine operator compliance mandates with its health and safety mission in a resource constrained environment. Proceeds from the fees are unlikely to be available in the same year as authorization

### **FY 2012**

Technical Support will continue to support requirements of the MINER Act. These include approvals for refuge alternatives, communication and tracking technologies; providing technical expertise, conducting field evaluations, and supporting new regulatory rulemaking to eliminate or reduce safety and health hazards in mining.

In FY 2012, Technical Support will:

- Continue to approve and certify mine equipment, materials, instruments, explosives and respirators to reduce backlogs and evaluate the safe design of seals, mine ventilation systems, and ground control.
- Provide assistance to enforcement personnel in the development of requirements for underground wireless communication and electronic tracking systems. Technical Support personnel will also conduct testing to evaluate problems related to mining equipment radio frequency interference.
- Continue expansion of the Repair Shop program to document audits of permissible equipment and machines rebuilt to approval specifications.
- Expand the existing ACC (Building 5) facility to adequately accommodate mandatory fire testing (e.g., brattice cloth) to include approvals, regulatory compliance, and forensic support.

MSHA's DOL Dam Safety Officer will continue to evaluate MSHA's efforts to reduce the likelihood of failure of any potential high-hazard impoundment/dam. Technical Support staff will train MSHA enforcement on impoundment inspections and Journeyman inspector training.

In FY 2012 Congress provided funding for Technical Support to expand and modernize the NADL located in Mt. Hope, WV. The lab processes rock dust and mine atmosphere samples collected by enforcement inspectors and performs other sample analyses. With equipment improvements and increased staff, the lab will improve the reliability and speed of sample processing, and increase the number of samples processed.

MSHA currently has three Mine Emergency Unit stations located in Bruceton, PA; Price, UT; and Beckley, WV. Congress provided additional funding to improve MSHA's mine emergency response operations and rescue capabilities through the upgrade of emergency response equipment and the purchase and deployment of new underground mine rescue communications systems for mine rescue teams. MSHA will maintain its Mining Emergency Operations (MEO) fleet by contracting and presenting vehicles for scheduled maintenance and repairs (e.g., engine

## TECHNICAL SUPPORT

failure, safety inspections). It will purchase additional MEO vehicles (robot trailer, generator trucks) throughout the United States, and continue to replace mine emergency response team consumables (protective gear, oxygen, tubing, filters, etc.). MSHA is upgrading mine rescue team communication devices to provide enhanced communication capabilities during rescue and recovery. These improvements will give first responders equipment in good working condition to immediately deploy in the event of a mine emergency, and will enhance the likelihood of successful rescue operations in remote areas.

### **FY 2011**

In FY 2011, MSHA transferred management of the NADL from the CSMH budget activity to Technical Support. MSHA purchased analysis equipment (furnaces, ovens, gas chromatograph), supplemented existing equipment, and implemented quality controls in the laboratory to begin the accreditation process.

Technical Support provided assistance to the Upper Big Branch Mine Disaster investigation, including testing and auditing of hundreds of mining equipment components, MEO coordination, gas analysis, sampling, and recovery.

Technical Support upgraded its MEO communications trailer and purchased another mine emergency trailer. It evaluated Agency and industry capabilities and preparedness to identify gaps and ascertain where changes are needed in plans, training, regulations, and policy. MSHA held meetings for coal and metal/nonmetal stakeholders, and conducted a focus group as part of the evaluation.

Technical Support provided engineering, scientific, and laboratory expertise to reduce respirable coal mine dust, silica, and noise exposures. Technical Support performed 248,768 analyses on dust samples to assess compliance, and made recommendations to MSHA enforcement staff to reduce miners' exposure. Technical Support provided engineering and scientific expertise for rulemaking for exposure to coal dust, respirable crystalline silica, dust monitors, and proximity detection for underground mines.

MSHA conducted mine plan review requests specific to mine waste impoundment, roof control, stoppings, highwall stability, and ventilation and reviewed amendments to these mine plans. MSHA reviewed 190 impoundment plans.

MSHA's DOL Dam Safety Officer provided dam-safety training for MSHA and industry personnel at the An Annual Dam Safety Seminar. This training is a primary tool for MSHA enforcement personnel to continue to obtain a higher level of understanding of dam safety. MSHA provided training to qualify coal industry personnel to perform 7-day dam inspections (30 CFR 77.216-3(a)(4)).

## TECHNICAL SUPPORT

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>FY 2011 Enacted</b>		<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Technical Support</b>				
<b>Strategic Goal 2.1 - Ensure workplaces are safe and healthy</b>	--	--	--	--
<b>Outcome Goal 2.1 - Secure safe and healthy workplaces, particularly in high-risk industries</b>	--	--	--	--
MSHA-TS-01 Percent of field investigation reports completed within 90 days	75.00%	74.00%	75.00%	75.00%
Approval Actions (New and Modifications)	800	770	800	800
Samples Analyzed /1	190,000	248,768	250,000	275,000
Calibrations (photometers, anemometers, noise, radiation)	5,400	5,151	5,400	5,400
Number of Impoundment Plans Reviewed	180	190	180	190
Seal Plan Approvals /2	10	0	12	12

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*Footnotes: TBD targets will be established annually. In addition:*

*1/ Increase in samples analyzed as a result of the Mt. Hope laboratory restructure.*

*2/Decrease in seal plan approvals due to UBB investigation*

In Support of Strategic Goal: *Ensure workplaces are safe and healthy* and MSHA Priority Performance Measure: *Ensure Workplaces in the Mining Industry are Safe and Healthy* Technical Support will utilize resources to reduce fatal accidents and health risks to miners through the following efforts:

- **Field Investigation Reports.** In response to requests for assistance from MSHA enforcement personnel, Technical Support conducts field investigations and laboratory studies of coal and metal and nonmetal mines to develop solutions to specific problems. Technical Support staff makes recommendations to enforcement personnel and the mining industry to help mine operators achieve compliance with Federal regulations.
- **Approval Actions.** Technical Support reviews and approves equipment used in mining and in mine emergencies.
  - Proximity and collision avoidance technology developed by manufacturers. Proximity protection systems protect miners in a wide vicinity of mining activities, including continuous mining machine, shuttle cars, feeder breakers, and conveyor belts. These devices disable machines in an emergency.

## TECHNICAL SUPPORT

- More advanced communication and tracking technologies for use in mine emergency situations. Communication and tracking devices assist in accurately locating miners in a post-accident environment for rescue and recovery.
- Technical Support conducts approval testing and quality control auditing of mining equipment and materials to ensure that manufacturers' products continue to meet the standard that MSHA had initially approved.
- **Samples Analyzed.**
  - Technical Support's analytical laboratories located in Pittsburgh, PA are accredited by the American Industrial Hygiene Association. The lab performs analytical sample analysis for enforcement personnel and the mining industry to assess exposures to various contaminants in the mining environment, including respirable dust, silica, and organic vapors. This ensures that the operator has established compliance with permissible exposure limits.
  - Technical Support plans to work toward accreditation of the NADL in Mount Hope, WV for conducting rock dust sample analysis and air sample analysis. MSHA expects an increase in the number of samples as a result of additional requirements, including the final rule "Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines" published in FY 2011.
- **Calibrations.** MSHA enforcement personnel require calibrated sampling equipment, such as noise dosimeters and radiation monitoring devices, to accurately assess exposures to hazardous contaminants or hazardous environmental conditions. Technical Support calibrates MSHA equipment bi-annually or annually to ensure the accuracy and proper functioning of instrumentation.
- **Impoundment Plans.** Upon request of MSHA enforcement programs, Technical Support conducts reviews of the engineering plans for impoundments/dams that are of significant size or hazard potential to prevent failures and protect the most vulnerable population of persons living downstream. MSHA anticipates an increase in the number of impoundment plans reviewed in FY 2013 due to increasing enforcement activity at the impoundments classified as high-hazard.
- **Seal Plan Approvals.** Technical Support reviews and approves mine plans for seals to ensure that designs are in compliance.

## TECHNICAL SUPPORT

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	17,053	16,238	16,370	132
11.3	Other than full-time permanent	0	65	65	0
11.5	Other personnel compensation	750	1,057	1,061	4
11.8	Special personal services payments	0	0	0	0
<b>11.9</b>	<b>Total personnel compensation</b>	<b>17,803</b>	<b>17,360</b>	<b>17,496</b>	<b>136</b>
12.1	Civilian personnel benefits	4,835	5,153	5,188	35
13.0	Benefits for former personnel	6	0	0	0
21.0	Travel and transportation of persons	721	824	824	0
22.0	Transportation of things	106	216	216	0
23.1	Rental payments to GSA	100	104	111	7
23.2	Rental payments to others	0	0	0	0
23.3	Communications, utilities, and miscellaneous charges	678	559	559	0
24.0	Printing and reproduction	34	34	34	0
25.1	Advisory and assistance services	21	23	23	0
25.2	Other services from non-Federal sources	269	252	252	0
25.3	Other goods and services from Federal sources 1/	3,488	4,265	4,265	0
25.4	Operation and maintenance of facilities	533	395	395	0
25.5	Research and development contracts	0	15	15	0
25.7	Operation and maintenance of equipment	146	444	444	0
26.0	Supplies and materials	568	977	977	0
31.0	Equipment	1,721	2,991	2,991	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	2	1	1	0
	<b>Total</b>	<b>31,031</b>	<b>33,613</b>	<b>33,791</b>	<b>178</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,699	1,694	1,694	0
	DHS Services	3	3	3	0
	HHS Services	1,729	1,729	1,729	0
	Services by Other Government Departments	0	839	839	0

# TECHNICAL SUPPORT

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$68
Personnel benefits	18
One day more of pay	85
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	7
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$178**

**Net Program** **\$0**

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>\$33,791</b>	<b>204</b>



## PROGRAM EVALUATION AND INFORMATION RESOURCES

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	18,173	18,157	17,990	-167
FTE	58	62	62	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 61.

### **Introduction**

The Directorate of Program Evaluation and Information Resources (PEIR) provides MSHA's program evaluation and information technology management services. PEIR ensures ongoing oversight of MSHA program activities by conducting internal reviews and data analyses to alert both internal and external stakeholders of developing trends.

PEIR supports the Open Government initiative by publishing comprehensive data regarding safety and health records of the nation's mines. The data sets contain MSHA's data from calendar year 2000 to the present regarding mine locations, accidents, injuries, production, violations and inspections.

PEIR manages MSHA's Enterprise Architecture (EA) governance process and operates and maintains all agency information technology applications, its General Support System (local and wide area networks), and the Agency's Internet and Intranet sites. PEIR uses the principles of the EA to collaborate with stakeholders to develop a slate of projects that are customer driven and support MSHA's mission to protect the safety and health of miners. PEIR also establishes standards and controls for computer and networking hardware and software.

PEIR collects, analyzes, and publishes data obtained from mine operators and contractors on the prevalence of work-related injuries and illnesses in the mining industry. MSHA's IT resources, including the Agency's website, support the Secretary's innovation strategies aimed at using openness, transparency, and effective communications as means of ensuring broad-based and continuing compliance. MSHA, the mining community, and the public use this data to assess progress in preventing occupational injuries and illnesses in the mining industry.

Among its other responsibilities, PEIR also: (1) serves as liaison between MSHA and Office of the Inspector General (OIG) and Government Accountability Office (GAO); (2) ensures transparency across MSHA by disclosing relevant information to the public; (3) evaluates methods to reduce, even further, the time to process accident and injury data and provide the information to interested parties as quickly as possible; (4) continues development of a single integrated database application system for managing and utilizing MSHA data in a web-based environment through accelerated IT modernization; (5) improves the performance and reliability of MSHA's wide area network; (6) expands MSHA's web services to further reduce the reporting burden on businesses and the public, share information more quickly, and automate internal processes; (7) ensures continuation of an active enterprise-wide security program that achieves cost-effective security; and (8) ensures risks are mitigated and contingency plans are in place and up-to-date.

## PROGRAM EVALUATION AND INFORMATION RESOURCES

PEIR supports the Secretary’s vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation’s miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

In FY 2013, PEIR will support efforts to enhance worker safety and foster compliance through worker education and worker voice through the following strategies:

- Increase Inspection and Enforcement Effectiveness
- Promote Adoption of Prevention-focused Health and Safety Management Programs by Mine Operators
- Improve Mine Emergency Response Preparedness
- Increase Efforts to Protect Miners from Discrimination

PEIR’s efforts will improve safety and health conditions in the mining workplace in support of MSHA’s priorities:

- Ensure Workplaces in the Mining Industry are Safe and Healthy
- Strengthen Regulatory Efforts
- Ensure Mining Industry Workers Have a Voice in the Workplace
- Modernize Training
- Reduce the Backlog of Contested Cases before the Federal Mine Safety and Health Review Commission

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2008	\$15,936	75
2009	\$16,514	75
2010	\$16,857	75
2011	\$18,173	61
2012	\$18,157	62

## **PROGRAM EVALUATION AND INFORMATION RESOURCES**

### **FY 2013**

MSHA requests \$17,990,000 and 62 FTE for the PEIR activity. This includes a decrease of \$261,000 for IT services PEIR provides to MSHA employees.

PEIR will continue to promote mine operator adoption of prevention-focused health and safety management programs by mine operators and strengthen regulatory efforts through participation with the rulemaking committees to identify requirements for potential changes to the respirable dust systems. PEIR will continue to identify potential requirements for processing Continuous Personal Dust Monitor data. PEIR will also publish best practices for improved methods for controlling exposures to respirable coal mine dust, silica, and noise on the MSHA website.

PEIR will continue to *Improve Mine Emergency Response Preparedness* in collaboration with Technical Support in conducting a comprehensive evaluation of MSHA, mining industry, and mine rescue team emergency response preparedness.

PEIR will *Increase Efforts to Protect Miners from Discrimination* by implementing enhancements to the Hazardous Conditions Complaints (HCC) computer system as identified by the HCC program evaluation. PEIR will also monitor program area corrective actions resulting from the evaluation and will develop new Key Indicator Reports to allow better monitoring of HCC evaluations.

PEIR completed its Telepresence project, initiated in FY 2011 and completed in FY 2012, by adding 20 video teleconference sites throughout the United States. The new capability will deliver modernized training more efficiently, reduce travel and per diem costs, and increase the availability of personnel by reducing training days.

### **FY 2012**

PEIR will advance MSHA's mission by operating and managing the Agency's transmission of information infrastructure, including a Wide Area Network (WAN) supporting 99 field locations and three data centers. PEIR will also operate and maintain MSHA's major application systems; support and maintain the Agency's on-line electronic government filing application; develop new software systems for the Agency's evolving technology needs; and provide technology training for the Agency's computer user community.

PEIR will continue to develop and implement software to support the efforts of the Department of Labor and MSHA to protect the health of our nations miners by eliminating "Black Lung" by reengineering health samples and transforming the current outdated health database system to a modernized and stable system compatible with MSHA's enterprise data system to ensure the integrity of the samples data and to support compliance reporting.

PEIR will continue to support the MSHA Operating Plan by providing Information Technology solutions to improve Mine Emergency Response Preparedness. Specifically, PEIR will design and implement a secure wireless mesh that will allow safe communications from the Mine Emergency Operations Command Vehicle to other locations on the mine site.

## PROGRAM EVALUATION AND INFORMATION RESOURCES

In 2012, PEIR will implement Phase II of its Telepresence initiative at ten additional sites throughout the United States as a continuation of FY 2011 cost savings and program efficiency efforts.

### **FY 2011**

In FY 2011, PEIR improved safety and health conditions in the mining workplace through the following strategies:

PEIR supported the *Increase Inspection and Enforcement Effectiveness* strategy by providing data support through modifying the Inspector's Portable Application for Laptops (IPAL) to notify inspectors when they have cited a standard that is linked to a high incidence of fatal injuries. Additionally, PEIR posted listings of engineering controls and other resources for eliminating hazardous conditions and practices that most frequently contribute to fatal accidents and share best practices for improved methods for preventing fatalities and disasters on MSHA's website. PEIR also continued to support a comprehensive "Rules to Live By" program to address areas for improvement focused on enhanced enforcement, education and training, engineering solutions, outreach and collaboration.

PEIR supported two strategies, *Promote Mine Operator Adoption of Prevention-focused Health and Safety Management Programs by Mine Operators* and *Strengthen Regulatory Efforts*, by participating in rulemaking committees to identify requirements for potential changes to the respirable dust systems. PEIR identified potential requirements for processing Continuous Personal Dust Monitor data.

PEIR supported the Agency's Operating Plan by reducing fatalities, injuries, and illness in the nation's mines by supporting agency efforts to increase inspection and enforcement effectiveness. Specifically, the office developed and provided Key Indicator reports to enable MSHA and its key stakeholders to monitor and improve enforcement performance and quality; identified emerging trends and performance results outside the distinct, predetermine performance levels; shared analytical results with program area executives; managed the collection, processing, publishing, and dissemination of timely and accurate mine accident, injury, and illness statistics; and conducted a comprehensive internal review of the Upper Big Branch underground coal mine in Montcoal, WV following the major mining disaster that occurred on April 5, 2010.

PEIR supported the Agency's Operating Plan by providing information technology solutions that support MSHA's efforts to strengthen and modernize training and education. Specifically, it provided information technology support to determine how best to improve data communications at the Mine Academy; provided information technology support for agency efforts to develop and deliver on-line distance learning products; implemented On the Job Training (OJT) enhancements to the Student Information System (SIS) to modernize and provide near real-time tracking of training and approval information for inspectors; and maintained an efficient, reliable, and secure information technology infrastructure and integrated suite of information technology applications and services.

## **PROGRAM EVALUATION AND INFORMATION RESOURCES**

PEIR supported the Agency's Operating Plan by providing Information Technology solutions to improve Mine Emergency Response Preparedness. Specifically, it established a PEIR Mine Emergency Operations (MEO) presence for the Western portion of the United States and designed and implemented a satellite communications solution for both the Eastern and a Western MEO presence to allow effective communications to occur between Headquarters and the Mine Emergency sites.

PEIR supported the Agency Operating Plan through the use of data analysis and reporting as well as technology enhancements to strengthen health and safety regulations in support of the Nation's Miners through the following:

- Provided data and information in response to requests associated with Special Emphasis programs, e.g. Voice in the Workplace, Pattern of Violations, Accountability Program, etc.
- Developed Key Indicator Reports for such areas as hazardous contaminant exposure limits and hazardous conditions complaints and lost-time injury rates, to provide useful/timely information to management.
- Published Outreach Materials on the web, e.g., Voice in the Workplace - miners' rights under 105(c) (discrimination complaints), stakeholder feedback and guidance for Rules to Live By III initiative, and MSHA's Pre-Assessment Conferencing nationwide program.

PEIR supported the Agency Operating Plan by increasing efforts to protect miners from discrimination and supporting Open Government. Specifically, it published Coal and Metal/Non-Metal health and safety samples data on Data.Gov and oversaw regular maintenance of the eight data sets provided by MSHA on Data.gov for accuracy.

PEIR established a videoconferencing solution at ten remote MSHA locations throughout the United States as a program efficiency and cost savings initiative. This Telepresence system allows remote training for inspectors. Additionally, this system will improve dissemination of critical information to the headquarters command center in the event of a mine rescue effort. PEIR projects savings in travel, transportation, per diem, and Academy operations.

## PROGRAM EVALUATION AND INFORMATION RESOURCES

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	5,502	5,706	5,747	41
11.3	Other than full-time permanent	0	10	10	0
11.5	Other personnel compensation	221	213	214	1
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>5,723</b>	<b>5,929</b>	<b>5,971</b>	<b>42</b>
12.1	Civilian personnel benefits	1,601	1,670	1,682	12
13.0	Benefits for former personnel	2	0	0	0
21.0	Travel and transportation of persons	54	51	51	0
22.0	Transportation of things	1	1	1	0
23.1	Rental payments to GSA	573	598	638	40
23.2	Rental payments to others	2	2	2	0
23.3	Communications, utilities, and miscellaneous charges	288	67	67	0
24.0	Printing and reproduction	26	6	6	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	61	48	48	0
25.3	Other goods and services from Federal sources 1/	658	590	590	0
25.4	Operation and maintenance of facilities	0	1	1	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	7,872	7,403	7,200	-203
26.0	Supplies and materials	125	127	127	0
31.0	Equipment	1,180	1,659	1,601	-58
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	7	5	5	0
	<b>Total</b>	<b>18,173</b>	<b>18,157</b>	<b>17,990</b>	<b>-167</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	513	511	511	0
	DHS Services	21	21	21	0
	HHS Services	0	58	58	0

# PROGRAM EVALUATION AND INFORMATION RESOURCES

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$21
Personnel benefits	6
One day more of pay	27
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	40
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$94**

**Net Program** **-\$261**

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>\$18,251</b>	<b>62</b>
<b>Program Increase</b>	<b>\$45</b>	<b>0</b>
<b>Program Decrease</b>	<b>-\$306</b>	<b>0</b>



## PROGRAM ADMINISTRATION

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY 13 Req. / FY 12 Enacted</b>
Budget Authority	15,906	16,998	16,729	-269
FTE	92	92	83	-9

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 94.

### **Introduction**

Program Administration (PA) provides administrative and management advice, products, and services to assist the Office of the Assistant Secretary in implementing the Mine and MINER Acts. The program’s director and staff members serve as the principal advisors to the Assistant Secretary on federal laws, regulations, standards, policies, procedures and related matters concerning the planning, acquisition, utilization, evaluation, and management of MSHA’s human, financial, and property resources.

PA supports the Secretary’s vision *Good Jobs for Everyone* through the following:

- Strategic Goal 2: Ensure workplaces are safe and healthy.
  - Outcome Goal 2.1: Secure safe and healthy workplaces, particularly in high-risk industries.
  - Performance Goal MSHA 2.1: Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation’s miners.
- Strategic Goal 3: Assure fair and high quality work-life environments.
  - Outcome Goal 3.3: Ensure worker voice in the workplace.
  - Performance Goal MSHA 3.3: Improve the timeliness of discrimination complaint investigations.
- DOL Priority Goal: Reduce the mining fatality rate by 5 percent per year based on a rolling five-year average.

PA plans and directs the full range of administrative management within MSHA, ensuring that, through effective utilization of resources, MSHA remains a viable and efficient organization responsive to the changing policy and program needs of MSHA and the mining industry. Activity support services include personnel management, financial management, procurement and contracting, employee training, safety, health, and diversity programs for MSHA employees, property management, and management analysis. By providing leadership, policy direction, and administrative support services, PA supports and strengthens all of MSHA’s program activities, enabling MSHA to meet or exceed annual safety and health performance goals and objectives.

# PROGRAM ADMINISTRATION

## Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$16,339	86
2009	\$15,684	86
2010	\$17,391	86
2011	\$15,906	94
2012	\$16,998	92

### FY 2013

MSHA requests \$16,729,000 and 83 FTE for the PA activity. This request includes a reduction of \$494,000 for the completion of a one-time expenditure in support of Crandall Canyon litigation.

PA will continue to implement its comprehensive human capital plan with the aim of significantly reducing mission-critical skill gaps.

PA will support DOL's Priority Goal, as well as the Departmental Strategic and Outcome Goals, while promoting a safe and healthful work environment for the MSHA employees.

In FY 2013, PA will support MSHA's program activities to improve safety and health conditions in the mining workplace.

### FY 2012

PA will continue to support MSHA's FY 2012 Operating Plan, Departmental Strategic Goals and Outcome Goals.

PA will continue to implement its comprehensive human capital plan with the aim of significantly reducing mission-critical skill gaps. PA will continue to seek recruitment strategies and improvement of the assessment process to replace the Federal Career Intern Program to ensure that qualified candidates are available for timely replacement as separations occur. PA will continue its partnership with the Department of Labor's Civil Rights Center and the Assistant Secretary for Administration and Management to recruit a qualified, diverse workforce through continued participation in career fairs, diversity conferences, and professional associations.

In FY 2012, MSHA plans to publish a succession management plan which will allow the Agency to employ a systematic approach to filling its mission critical occupations and key leadership positions over the next several years.

In February 2012, MSHA announced the reorganization of the Office of Accountability into the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI), formerly the Office of Assessments.

## **PROGRAM ADMINISTRATION**

In FY 2012, Program Administration received an additional \$3,200,000 above the President's Request for continued progress on the elimination of the backlog of mine safety and health appeals at the Federal Mine Safety and Health Review Commission (FMSHRC). In furtherance of this, the Department transferred \$770,000 from MSHA to the Office of the Solicitor (SOL), allowing SOL to hire additional attorneys, on a term basis, which will enable SOL to accept additional cases from MSHA's Conference and Litigation Representatives (CLRs).

Additionally, MSHA reallocated \$1,000,000 to Coal and Metal (\$600,000 in Coal and \$400,000 in Metal) to support the backlog reduction initiative. This funding provides for additional CLRs and backlog managers that directly support FMSHRC-related activities. MSHA also reallocated \$300,000 to OSRV to continue its work on health standards that require complex statistical, technical, and scientific analyses.

MSHA is also providing funding support for Crandall Canyon litigation and a case processing training module to CLR's to strengthen their ability to internally resolve cases efficiently and effectively. The training will include matters such as proper handling of contested citations, simplified FMSHRC proceedings, negotiations, settlement documentation, and sessions on how to set up reliable processes for managing case workflow.

### **FY 2011**

PA continued to implement its comprehensive human capital plan with the aim of significantly reducing mission-critical skill gaps. It supported the Federal Career Intern Program in order to promote the job screening program to ensure that qualified candidates are available for timely replacement as separations occur. PA explored recruitment strategies and improvement of the assessment process. PA continued its partnership with DOL's Civil Rights Center and the Assistant Secretary for Administration and Management to recruit a qualified, diverse workforce through continued participation in career fairs, diversity conferences, and professional associations.

MSHA continued to target its recruitment efforts to ensure a qualified and diverse pool of professionals through continued active participation in career fairs, diversity conferences, and professional associations. During FY 2011, MSHA conducted approximately 20 career fairs. The job fair recruiting process was revised to allow for an expansion of the applicant pool and associated 'pipelines' to increase diversity within the inspectorate.

PA supported MSHA's Operating Plan, Departmental Strategic Goals and Outcome Goals. PA also provided data for the update of the Annual Performance Report.

The Office of Accountability conducted reviews to ensure that management controls are in place and effective enforcement levels adhere to MSHA's policies and procedures. The reviews ensure that guidance is being complied with consistently and that the agency is accomplishing its mission-critical activities.

## **PROGRAM ADMINISTRATION**

In June 2011, PA supported the DOL Emergency Management Center, in conjunction with the Dallas Emergency Operations Center in planning and organizing the Department's participation in the National Level Exercise / Eagle Horizon 2011 exercise. This was a White House mandated, government-wide exercise requiring external evaluation of all Federal continuity programs.

PA received funding assistance from Coal Mine Safety and Health and Metal and Nonmetal Safety and Health program activities to support the Office of Accountability.

## PROGRAM ADMINISTRATION

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 Request</b>	<b>Diff. FY13 Req./ FY12 Enacted</b>
11.1	Full-time permanent	8,749	8,534	8,596	62
11.3	Other than full-time permanent	0	104	104	0
11.5	Other personnel compensation	300	221	222	1
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>9,049</b>	<b>8,859</b>	<b>8,922</b>	<b>63</b>
12.1	Civilian personnel benefits	2,404	2,222	2,239	17
13.0	Benefits for former personnel	3	0	0	0
21.0	Travel and transportation of persons	207	419	319	-100
22.0	Transportation of things	9	15	15	0
23.1	Rental payments to GSA	735	767	912	145
23.2	Rental payments to others	10	12	12	0
23.3	Communications, utilities, and miscellaneous charges	403	245	245	0
24.0	Printing and reproduction	65	11	11	0
25.1	Advisory and assistance services	25	247	247	0
25.2	Other services from non-Federal sources	759	507	507	0
25.3	Other goods and services from Federal sources 1/	1,458	1,968	1,968	0
25.4	Operation and maintenance of facilities	8	5	5	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	121	1,188	794	-394
26.0	Supplies and materials	558	426	426	0
31.0	Equipment	92	107	107	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>15,906</b>	<b>16,998</b>	<b>16,729</b>	<b>-269</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,187	1,190	1,190	0
	DHS Services	27	27	27	0
	HHS Services	6	6	6	0
	Services by Other Government Departments	0	745	745	0

# PROGRAM ADMINISTRATION

## CHANGES IN FY 2013

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$32
Personnel benefits	8
One day more of pay	40
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	145
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$225**

**Net Program** **-\$494**

**Direct FTE** **-9**

	Estimate	FTE
<b>Base</b>	<b>\$17,223</b>	<b>92</b>
<b>Program Decrease</b>	<b>-\$494</b>	<b>-9</b>