

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

JUSTIFICATION OF
APPROPRIATION ESTIMATES
FOR
COMMITTEE ON APPROPRIATIONS



FISCAL YEAR 2013

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

EXECUTIVE SUMMARY

The Federal Mine Safety and Health Review Commission (“Commission”) is an independent adjudicatory agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 (“Mine Act”), as amended. Section 113 of the Mine Act establishes the Commission and sets forth its responsibilities. The Mine Improvement and New Emergency Response Act of 2006, P.L. 109-236 (“MINER Act”), enacted in June of 2006, added an additional responsibility to the Commission, resolving disputes between the Secretary of Labor and underground coal operators with respect to the contents of emergency response plans or the Secretary’s refusal to approve such plans.

Most cases that come before the Commission involve civil penalties proposed by the Department of Labor’s Mine Safety and Health Administration (MSHA) against mine operators. The Commission is responsible for addressing whether the alleged violations occurred, as well as the appropriateness of proposed penalties. Other types of cases include contests of MSHA orders to close a mine for health or safety reasons, miners’ charges of discrimination based on their complaints regarding health or safety, and miners’ requests for compensation after being idled by a mine closure order. Disputes involving the temporary reinstatement of a miner or an emergency response plan must be decided on an expedited basis.

The Commission’s Administrative Law Judges (“judges”) decide cases at the trial level. The five-member Commission provides administrative appellate review. Review of a judge’s decision by the Commission is not automatic, and requires the approval of at least two Commissioners. Most of the cases accepted for review are generated from petitions filed by parties adversely affected by a judge’s decision. In addition, the Commission, on its own initiative, may decide to review a case. A judge’s decision that is not accepted for review becomes a final, non-precedential order of the Commission. Appeals from the Commission’s decisions are to the federal courts of appeals.

The Commission is requesting a budget of \$16 million for FY 2013 to support the full-time equivalent (FTE) of 74 staff members. This staffing level is two more than anticipated in FY 2012, as a result of shifting resources from contracts to FTE. The requested FY 2013 funding level is \$1.604 million below the FY 2012 budget level as a result of the one-time funding in FY 2012 to support moving the Commission

Headquarters to a new location in Washington, DC and the purchase of a new electronic case management system.

Cases at the trial level are handled by the Commission's Office of Administrative Law Judges (OALJ). The backlog of trial-level cases has been the subject of much concern. The backlog is the result of a dramatic increase in the number of new cases filed with the Commission. From FY 2000 through FY 2005, the average number of cases filed was 192 per month, or 2,307 per year. However, since FY 2006 the number of new cases filed increased steadily, and in FY 2010 over 11,000 new cases were filed.

The Commission has taken a number of steps to dispose of cases more efficiently and reduce the backlog. In an attempt to expedite the processing of settlement decisions, the Commission promulgated a final rule requiring that parties submit proposed settlement orders to the Commission in electronic form. 75 Fed. Reg. 73955 (Nov. 30, 2010). The rule became effective on December 30, 2010, and in the remaining ten months of FY 2011, an estimated 6,400 such settlement motions were filed with the Commission.

In December 2010, the Commission published a final rule setting forth simplified procedures for litigating certain categories of cases before the Commission's judges. 75 Fed. Reg. 81459 (Dec. 28, 2010). The simplified proceedings rule became effective on March 1, 2011. The Commission will track cases disposed of through simplified proceedings in order to assess the success of this alternative procedure for case disposition.

The Commission began FY 2011 with a backlog of 18,170 cases and 10,594 new cases were filed during the year. As a result of staff added using a supplemental appropriation and efficiency measures implemented by the Commission to expedite the disposition of certain cases, the backlog dropped to 15,797 undecided trial-level cases by the beginning of FY 2012. This was the first drop in the Commission's trial-level case inventory from one year to the next since FY 2004.

We project that the Commission will begin FY 2013 with 15,797 undecided trial cases. During FY 2013, we anticipate that 11,000 new cases will be filed, and that Commission judges will dispose of 11,000 cases. Thus, the case inventory at the end of the year will be unchanged at 15,797.

In recent years, the Commission's appellate review function has also seen a dramatic increase in the number of filings. The trend of parties filing an increased number of petitions for substantive review each year is likely to continue for the foreseeable future, and even accelerate as the Commission's judges issue a greater number of decisions in the course of addressing the Commission's case backlog. Resolving these substantive cases creates a great demand on the resources of the five-member Commission and

the Office of General Counsel (OGC). Typically, in these substantive cases, the Commissioners, with the assistance of the OGC, review and analyze extensive briefs filed by the parties, sometimes conduct an oral argument, and issue a decision which fully addresses all the contentions raised by the parties.

In addition to petitions for review in substantive cases, the Commission at the appellate level considers requests to reopen cases in which a mine operator is in default for failing to timely respond to the Secretary's proposed penalty or to a judge's order. These cases are generically referred to as default cases. The number of these requests for reopening filed each year has remained at historically high levels.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MISSION

The Commission is an independent adjudicatory agency charged with resolving disputes arising from the enforcement of safety and health standards in the nation's mines. Under its enabling statute, the Mine Act, the Commission does not regulate the mining industry, nor does it enforce the Mine Act; those functions are delegated to the Secretary of Labor acting through MSHA. The Commission's mission is to provide just, speedy, and legally sound adjudication of proceedings authorized under the Mine Act, thereby enhancing compliance with the Act and contributing to the improved health and safety of the nation's miners.

The scope of the Commission's mission was expanded by the passage of the MINER Act. That statute amended the Mine Act and vested the Commission with the responsibility for resolving disputes over the contents of mine emergency plans adopted by underground coal mine operators and submitted to MSHA for review and approval. The MINER Act imposed tight deadlines on the Commission and its judges with respect to these proceedings and the Commission has adopted procedural rules to implement those deadlines.

FUNCTIONS AND PROCEDURES

The Commission carries out its responsibilities through trial-level adjudication by judges and appellate review of judges' decisions by a five-member Commission appointed by the President and confirmed by the Senate. Most cases involve civil penalties assessed against mine operators by MSHA and address whether or not the alleged safety and health violations occurred and if so, the degree of gravity and negligence involved, so that appropriate sanctions may be imposed. Other types of cases involve mine operators' contests of mine closure orders, miners' complaints of safety or health related discrimination, miners' applications for compensation after a mine is idled by a closure order, and review of disputes between MSHA and underground coal mine operators relating to those operators' mine emergency plans.

Once a case is filed with the Commission, it is referred to the Chief Administrative Law Judge ("Chief Judge"). Thereafter, litigants in the case must submit additional filings before the case is assigned to a judge. To expedite the decisional process, the Chief

Judge may rule on certain motions and where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual judge, that judge is responsible for the case and rules upon motions and settlement proposals. If a hearing is necessary, the judge schedules and presides over the hearing, and issues a decision based upon the record. A judge's decision becomes a final, non-precedential order of the Commission unless it is accepted for review by the five-member Commission.

The five-member Commission provides administrative appellate review based on the record. It may, in its discretion, review decisions issued by judges when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commission's decisions are precedential, and appeals from the Commission's decisions are heard in the federal courts of appeals.

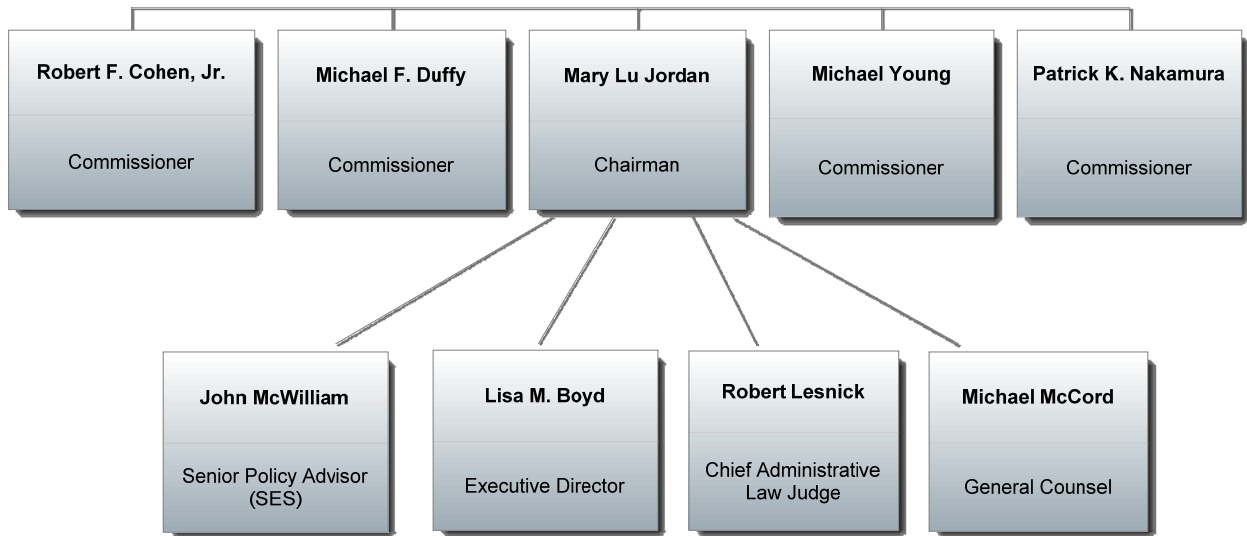
The Office of the Executive Director (OED) supports the above functions by providing budget and financial management, and administrative and technical services, including human resources and information technology (IT), procurement and contracting, and facilities management.

STRATEGIC GOALS

The Commission has set forth the following strategic goals: 1) to ensure expeditious, fair, and legally sound adjudication of cases at the trial and appellate levels, and 2) manage the Commission's human resources, operations, facilities, and IT systems to ensure a continually improving, effective, and efficient organization.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Key Personnel Organization Chart



COMMISSION MEMBERS

<u>NAME</u>	<u>TERM EXPIRATION</u>
Mary Lu Jordan, Chairman	August 30, 2014
Michael F. Duffy	August 30, 2012
Michael G. Young	August 30, 2014
Robert F. Cohen, Jr.	August 30, 2012
Patrick K. Nakamura	August 30, 2016

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Federal Mine Safety and Health Review Commission:
\$16,000,000.

AUTHORIZING LEGISLATION
(\$ in thousands)

<u>Authorizing Legislation</u> <u>Containing Indefinite</u> <u>Authority</u>	FY 2011*	FY 2012	FY 2013
Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. § 801 et seq.)	\$10,337*	\$17,604	\$16,000

* In FY 2010, Congress provided the Commission with a Supplemental Appropriation (P.L. 111-212) of \$3,800,000, which was available July 29, 2010—July 28, 2011.

JUSTIFICATION BY FUNCTION

GENERAL STATEMENT

The Commission was established as an independent agency by section 113(a) of the Federal Mine Safety and Health Act of 1977. The Commission fulfills its mission through three main functions. The trial-level function lies within the Office of the Administrative Law Judges (OALJ). At the trial level, the Commission's judges hear and decide cases initiated by the Secretary of Labor, mine operators, miners, and miners' representatives. The appellate function is carried out by the five-member Commission, its staff, and the Office of the General Counsel (OGC). The Commission hears appeals of judges' decisions by granting a petition for discretionary review from one or more of the parties or by directing review on its own motion.

In addition, at the appellate level, the Commission considers motions to reopen cases where an operator has failed to timely contest a proposed penalty or to timely respond to the Secretary of Labor's penalty petition. Finally, the Office of the Executive Director (OED) supports both the trial-level and appellate functions by providing budget management, administrative and technical services.

FTE by Function and Funding								
	<u>FY 2010 Supplemental</u>		<u>FY 2011</u>		<u>FY 2012</u>		<u>FY 2013 Request</u>	
	FTE	AMOUNT (000)	FTE*	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)
Office of Administrative Law Judges	10	3,445	36	6,292	47	12,705	47	11,299
Office of the Commission	1	355	17	3,219	19	3,981	20	3,844
Office of the Executive Director	0	0	5	847	6	918	7	857
Total	11	3,800¹	58	10,337	72	17,604	74	16,000

*The Commission ended FY 2011 with 72 FTE on-board, initially made possible by the FY 2010 Supplemental Appropriations Act.

¹ Available for expenditure July 29, 2010—July 28, 2011. The Commission carried this staff over for the final two months of FY 2011, using funds appropriated in FY 2011.

ACTIVITIES

Administrative Law Judges Function

The Commission employs administrative law judges to hear and decide contested cases at the trial level. The judges travel to hearing sites located at or near the mine involved in order to afford mine operators, miners and their representatives a full opportunity to participate in the hearing process. Commission judges are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

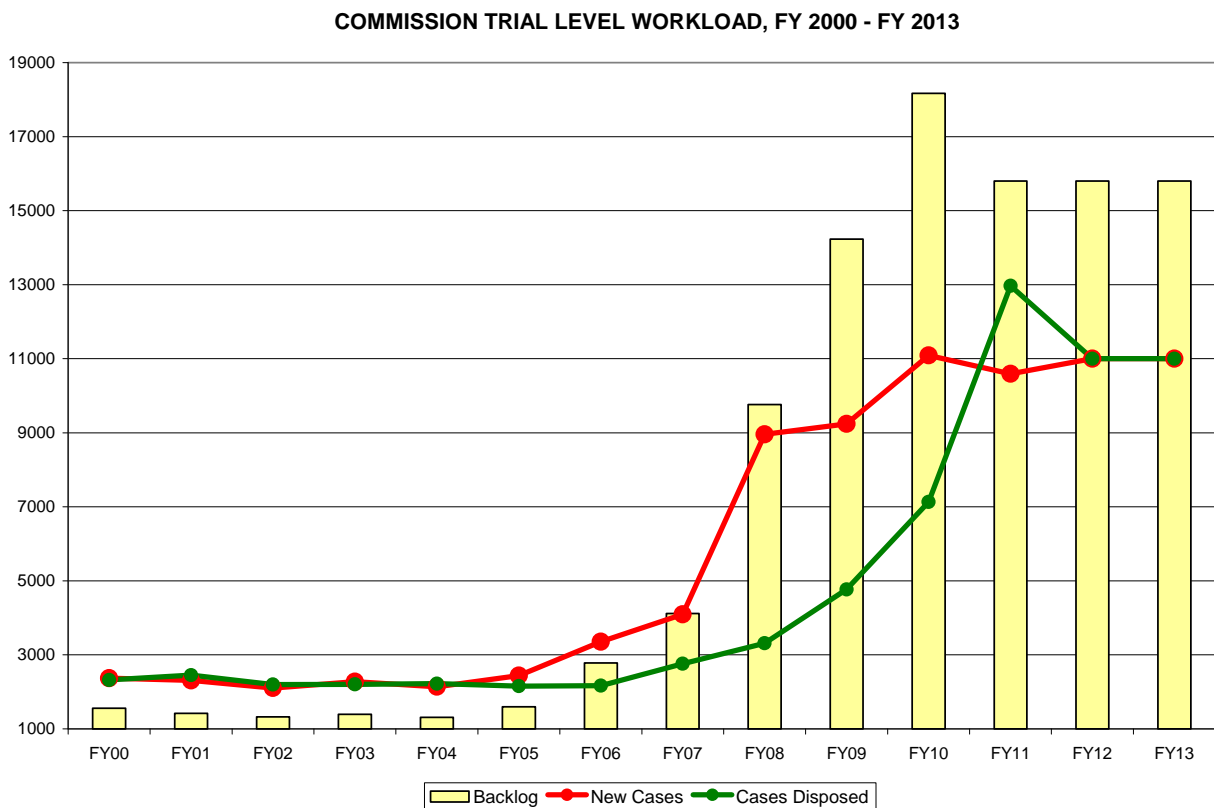
The Commission estimates that 15,797 trial level cases will be pending at the beginning of FY 2013. New case filings are expected to remain steady, as operators continue to elect to contest civil penalties proposed by MSHA and as MSHA utilizes its “pattern of violations” sanctions. Therefore, the Commission anticipates that it will receive 11,000 new cases during the fiscal year, and that 11,000 cases will be disposed of during the year. Thus, the end-of-year inventory would be unchanged from the beginning of FY 2013.

Administrative Law Judge Caseload Data

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimate	FY 2013 Estimate
Cases pending beginning of year	14,213	18,170	15,797	15,797
New cases received	11,087	10,594	11,000	11,000
Total case workload	25,300	28,764	26,797	26,797
Cases decided	7,130	12,967	11,000	11,000
Cases pending end of year	18,170	15,797	15,797	15,797

The Commission began FY 2012 with an inventory of 15,797 undecided cases, and 11,000 new cases are anticipated for the year. The Commission estimates that, depending on experience, Judges will normally dispose of an average of 550 cases per year for each of the Commission’s 20 FTE judge slots. Therefore, the Commission anticipates that a total of 11,000 cases are expected to be decided, resulting in an FY 2012 end-of-year inventory of 15,797 undecided cases.

The Commission also expects Judges to dispose of an average of 550 cases each in FY 2013 for a total of 11,000 dispositions.¹ The agency notes that this number may ultimately be slightly lower, because judges will be deciding generally more difficult cases that were not already settled as a part of the initiative to dispose of as many cases as possible in FY 2011 and FY 2012.



¹Settlement decisions are a significant portion of the Commission's dispositions. The volume of settlement motions considered for approval is entirely dependent upon the number submitted by the Solicitor's Office. That volume may drop if there are fewer non-complex cases or the Department of Labor's funding level is reduced.

Performance Objective and Goals for FY 2013

The Commission has established the following performance objective and related goals to accurately measure performance.

The Commission's FY 2013 budget includes the following objective for the Administrative Law Judge function:

- Dispose of cases in a timely manner.

The following performance goals have been established for FY 2013 to support this objective.

PERFORMANCE MEASUREMENT MATRIX OFFICE OF ADMINISTRATIVE LAW JUDGES*

OBJECTIVE : DISPOSE OF CASES IN A TIMELY MANNER					
	FY 2010	FY 2011		FY 2012	FY 2013
	Actual	Goal	Actual	Goal	Goal
Average days from receipt to disposition of penalty cases*	499	550	524	525	525
Percent of cases disposed of within 365 days of receipt*	28%	30%	33%	33%	33%
Number of cases pending over 365 days	7,680	9,500	7,143	7,200	7,200
Percent of cases pending over 365 days*	42%	49%	45%	45%	45%
Percent of settlement orders issued within 60 days of settlement motion	54%	55%	77%	77%	77%
Percent of dispositions under simplified proceedings**	n/a	Baseline	1.1%	Baseline	TBD
Average days from receipt to disposition under simplified proceedings**	n/a	Baseline	99 days	Baseline	TBD

* The timeframes above include time allowed under the Commission's Procedural Rules for the Secretary of Labor to file a petition (generally 45 days), time under the rules for an operator to answer (generally 30 days), and time granted by a judge when he or she stays a proceeding.

** The Commission's simplified proceedings rule became effective in March 2011. Baseline metrics will be established through FY 2012. Targets will be set for 2013 once 2012 data is collected.

Office of the Administrative Law Judges Staffing

The Commission's FY 2013 budget includes 47 FTEs and \$11.3 million for OALJ, to support the current full-time equivalent (FTE) of 20 judges, which is the judge level first achieved through the FY 2010 Supplemental Appropriations Act (P.L. 111-212), and maintained since the passage of that Act. The FY 2013 budget also includes six law clerks and seven legal assistants to support the judges, and a number of docket clerks to maintain case files, and process and record documents filed with the Commission. The FY 2013 budget for OALJ represents the same number of FTE as estimated for FY 2012, and will enable the Commission to prevent any growth in the backlog of cases at the trial level.

The decrease in funding from the FY 2012 level reflects the OALJ's allocation of two non-recurring expenses that have been provided in FY 2012. One of those expenses was moving the Commission's headquarters to a new location in Washington, DC. The other was for the Commission to purchase and implement an e-filing system that will allow for electronic filing by the parties, fully electronic case files, electronic assignment and distribution of cases, automated notifications to parties, and case tracking. The OALJ FY 2013 budget includes \$300,000 to maintain this system.

	<u>FY 2010 Supplemental*</u>		<u>FY 2011</u>		<u>FY 2012</u>		<u>FY 2013 Request</u>	
	FTE	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)
Office of Administrative Law Judges	10	3,445	36	6,292	47	12,705	47	11,299

* Available for expenditure July 29, 2010—July 28, 2011. The Commission carried this staff over for the remaining two months of FY 2011, using funds appropriated in FY 2011.

Commission Review Function

The five-member Commission decides two principal types of cases: (1) *substantive* cases, which are cases where a judge has issued a decision on the merits and either a party has filed a petition for review with the Commission or at least two Commissioners have decided to grant review on their own initiative; and (2) *default* cases, which are cases where an operator has failed to timely contest a proposed penalty or to respond to the Secretary's penalty petition and the operator has filed a motion to reopen the final order.

The authority for the review of judges' decisions is set forth in section 113(d)(1) of the Act. The Act states that a judge's decision shall become final 40 days after its issuance, unless within that period any two Commissioners direct that the decision be reviewed. Most substantive cases come before the Commission when two or more Commissioners vote to grant a petition for discretionary review filed by a party adversely affected or aggrieved by the judge's decision.

Two or more Commissioners may also direct any judge's decision for review *sua sponte* (on the Commission's own motion, without the parties filing a petition). *Sua sponte* review is limited to judges' decisions that are contrary to law or Commission policy, or that present a novel question of policy.

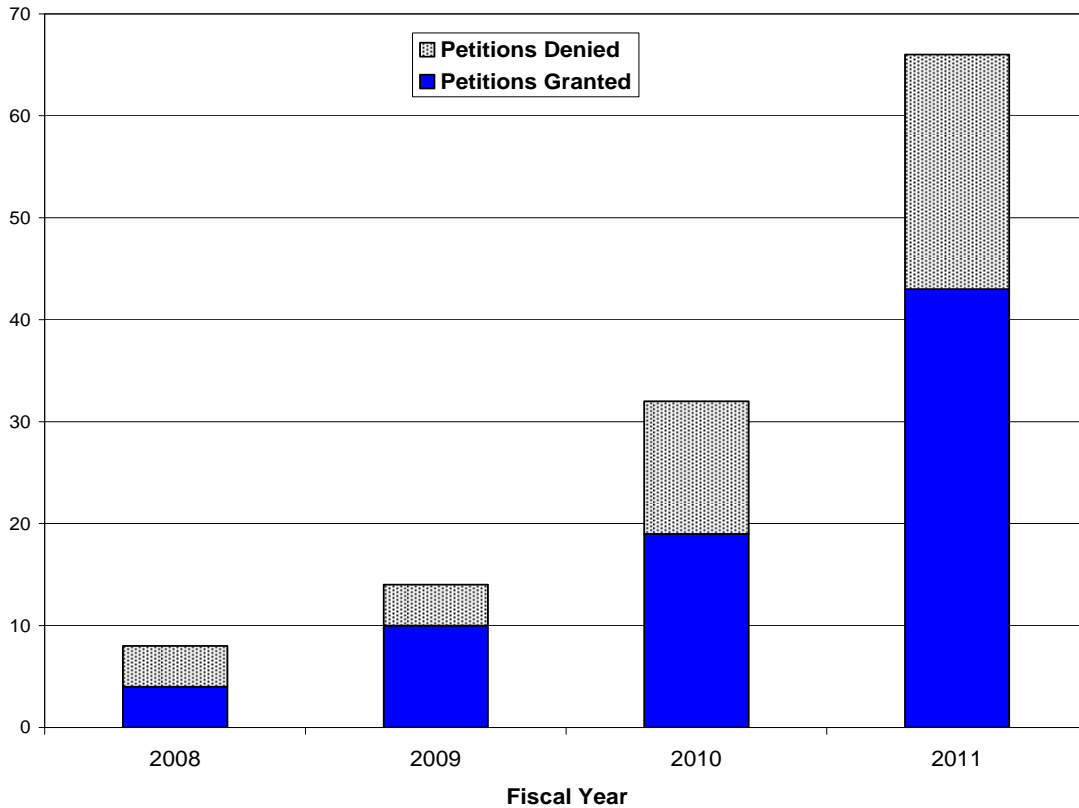
By law, a quorum of three Commissioners is required to decide substantive cases. Many of the Commission's cases present issues of first impression under the Mine Act. That is, the cases raise issues that have not been resolved by prior decisions of the Commission or the courts, or the cases involve the interpretation of safety and health standards and regulations newly promulgated by MSHA.

In recent years, the Commission's appellate review function has seen a significant increase in the number of filings of both substantive and default cases. The trend of an increased number of petitions being filed for substantive review is likely to continue for the foreseeable future, and perhaps accelerate as the Commission's judges issue a greater number of decisions in the course of addressing the Commission's case backlog.

In FY 2008, 8 petitions for review of judges' decisions were filed with the Commission, and 4 of those petitions were granted. In FY 2009, 14 petitions for review of judges' decisions were filed with the Commission, and 10 of those petitions were granted. In FY 2010, 32 petitions were filed with the Commission, and 19 of the petitions were granted. In FY 2011, 66 petitions were filed with the Commission, and 43 of the petitions were granted.

Thus, the recent trend is for the number of new substantive cases on the Commission's docket to roughly double each year. The following chart illustrates this trend. The increase in petitions filed by parties and granted by the Commission will have a significant impact on the Office of General Counsel (OGC), which is responsible for conducting the initial research in substantive cases and preparing draft opinions for Commission members.

FMSHRC Appellate Level Petitions for Substantive Review



In addition, during FY 2011, the high number of default cases filed before the Commission continued to be a major challenge. Historically, the number of motions to reopen filed by operators with the Commission has been fewer than 50 per year. However, the number of motions to reopen filed with the Commission increased substantially from 68 in FY 2007 to 177 in FY 2008 – a 2.5 fold increase in such cases. Since then, the number of motions to reopen has remained steady at about 200 per year. Each default case must be carefully analyzed by an OGC attorney-advisor, who then prepares a draft order for consideration by the Commissioners.

OGC plays an important role in handling substantive cases that have been accepted for review by the Commissioners. The OGC attorneys also perform other duties, such as responding to FOIA requests, ethics counseling and training, review of financial disclosure forms, and equal employment opportunity counseling and training. Those duties have substantially increased with the size of the Commission's staff. In addition, OGC is primarily responsible for formulating and drafting the Commission's rulemaking initiatives, such as those involving more efficient settlement procedures and simplified proceedings for litigating certain categories of cases.

The Commission began FY 2011 with an inventory of 119 undecided appellate cases and received 259 new cases during the year. During FY 2011, 276 case dispositions were made, 27 of which were substantive cases and 249 were default cases. In FY 2012, the Commission began the year with an inventory of 102 undecided cases, and 270 new cases are anticipated for the year. An estimated 250 case dispositions are expected, consisting of 35 dispositions in substantive cases and 215 dispositions in default cases.

In FY 2013, it is expected that 122 cases will be pending before the Commission at the beginning of the year, and an estimated 280 new cases will be filed during the year. Approximately 250 dispositions are expected, of which an estimated 40 will be in substantive cases and 210 in default cases. Thus, it is anticipated that the Commission's appellate docket will contain 152 undecided cases at the end of FY 2013.

Commission Review Caseload Data				
	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimate	FY 2013 Estimate
Cases pending beginning of year	95	119	102	122
New cases received	213	259	270	280
Total case workload	308	378	372	402
Cases decided	189	276	250	250
Cases pending end of year	119	102	122	152

Commission Review Staffing

The Commission is requesting a budget of \$3.8 million and 20 FTE for its appellate review activities in FY 2013. This includes 10 FTEs for the Chairman, the other four Commissioners, and their immediate staff. It also includes 10 FTEs for OGC. This is one more FTE than anticipated in FY 2012. The decrease in funding over FY 2012 reflects OGC's share of the one-time cost of the Commission's move of its Headquarters to a new location in FY 2012.

	<u>FY 2010 Supplemental*</u>		<u>FY 2011</u>		<u>FY 2012</u>		<u>FY 2013 Request</u>	
	FTE	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)
Office of the Commission	1	355	17	3,219	19	3,981	20	3,844

* Available for expenditure July 29, 2010—July 28, 2011. The Commission carried this staff over for the remaining two months of FY 2011, using funds appropriated in FY 2011.

Performance Objective and Goals for FY 2013

The Commission has updated and clarified its performance objectives and goals for its Commission review function. Our FY 2013 budget includes the following two objectives for this function:

- Issue decisions in substantive cases accepted for review in a timely manner
- Issue orders in default cases in a timely manner

The following performance goals have been developed for FY 2013 to support this objective.

PERFORMANCE MEASUREMENT MATRIX

COMMISSION REVIEW FUNCTION

	<u>FY 2010</u>	<u>FY 2011</u>		<u>FY 2012</u>	<u>FY 2013</u>
	<u>Actual</u>	<u>Goal</u>	<u>Actual</u>	<u>Goal</u>	<u>Goal</u>
OBJECTIVE: Issue opinions in substantive cases accepted for review in a timely manner					
Undecided substantive cases over 18 months of age	2	3	5	2	2
Percent of undecided substantive cases over 18 months of age	7%	10%	10%	8%	5%
Undecided substantive cases 12—18 months of age	9	6	8	6	9
Percent of undecided substantive cases 12—18 months of age	32%	20%	15%	16%	15%
Decisions in substantive cases greater than 18 months of age*	0	baseline	7	8	10
Percent of substantive decisions greater than 18 months of age*	0%	baseline	44%	33%	33%
OBJECTIVE: Issue orders in default cases in a timely manner					
Undecided default cases over 6 months of age *	36	20	19	15	15
Percent of undecided default cases over 6 months of age	38%	20%	24%	15%	15%

* New metric established for FY 2012.

Office of the Executive Director Function

The OED provides administrative services to support the Commission in fulfilling its mission and strategic goals. The primary functions are financial management, human resources, procurement and contracting, IT, facilities management, and general administrative service support.

The financial management services function includes the areas of budget and accounting, such as budget formulation, budget execution, funds control, financial reporting, and vendor payments.

Human resources covers the areas of recruitment and placement, classification and pay administration, performance management and incentive awards, employee benefits and retirement, personnel security, coordination of employee training program, and wellness and employee assistance programs.

Procurement and contracting covers specific matters such as maintaining a simplified acquisition program for supplies and services, contract implementation and oversight, and coordination of services and supplies.

IT entails help desk functions, network administration, policy formulation for IT, and telecommunication.

Facilities management covers property and space management, organization management, and physical security.

Other general administrative services provided by OED include the administration of employee travel authorizations and reimbursements, and the Metro subsidy program.

Office of the Executive Director Staffing

The Commission is requesting an FY 2013 budget of \$0.857 million and 8 FTE for the Office of the Executive Director. This is one more FTE than anticipated in FY 2012. The decrease in funding over FY 2012 reflects OED’s allocation of the one-time cost of the Commission’s move of its Headquarters to a new location in FY 2012.

	<u>FY 2011</u>		<u>FY 2012</u>		<u>FY 2013</u>	
	FTE	AMOUNT (000)	FTE	AMOUNT (000)	FTE	AMOUNT (000)
Office of the Executive Director	5	847	7	918	8	857

CHARTS AND GRAPHS

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**Budget Authority by Object Class
(In thousands)**

	FY 2010 Supplemental Actual*		FY 2012 Estimate**	FY 2013 Estimate
Personnel Compensation	1,032	6,034	7513	7,672
Other than Full-Time Permanent	<u>0</u>	<u>360</u>	<u>380</u>	<u>380</u>
Total, Personnel Compensation	1,032	6,394	7,893	8,052
Personnel Benefits, Civilian	149	1,352	2,070	2,101
Benefits to Former Employees	-	-	11	12
Travel and Transportation of Persons	20	136	240	331
Transportation of Things	6	8	31	32
Rental Payments to GSA	442	1,385	1,547	1,547
Communications, Utilities, and Misc.	124	112	369	369
Printing and Reproduction	2	7	24	24
Other Services	1,898	811	2,628	2,784
Supplies and Materials	64	133	855	321
Equipment	<u>63</u>	<u>0</u>	<u>1,936</u>	<u>427</u>
Total	3,800	10,337	17,604	16,000

* FY 2010 Supplemental costs include staff loaned or detailed from other federal agencies, contract staff, exploration of electronic case filing, and rental for temporary space, which are included in "Other Services."

** In FY 2012, the \$1.98 million provided for moving the Washington, D.C. headquarters is distributed between "Other Services", "Supplies and Materials" and "Equipment". The \$1 million provided for implementation of electronic case filing is distributed between "Other Services" and "Equipment".

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Personnel Summary

	2010 SUPPLE- MENTAL	2012 ESTIMATE	2013 REQUEST
ACCOUNT: SALARIES & EXPENSES			
Executive Level III		1	1
Executive Level IV		4	4
		5	5
ES		1	2
		1	2
AL-2		1	1
AL-3	6	13	19
	6	14	20
GS-15		5	5
GS-14		4	4
GS-13		2	3
GS-12		3	3
GS-11	5	12	16
GS-9	2	5	4
GS-8		7	5
GS-7		0	3
GS-6		1	2
GS-5		-	-
	7	39	45
Total Permanent Full-time Positions	13	59	72
Unfilled positions end-of-year	-	-	-
Total, full-time permanent employment end-of-year		59	-
Cumulative Full-time equivalent (FTE) usage	11	58	-

	FY 2011	FY 2012 Est.	FY 2013 Est.
Average EX Salary	\$157,460	\$157,460	\$157,460
Average ES Salary	\$156,673	\$167,337	\$167,337
Average AL Salary	\$164,427	\$166,427	\$166,427
Average GS Salary	\$78,273	\$81,285	\$81,285

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Amounts Available for Obligation (in millions)

	FY 2011*		FY 2012		FY 2013	
	FTE	Amount	FTE	Amount	FTE	Amount
Appropriation, total estimated obligations	69	10.337	72	17.604	74	16.000

* The Supplemental Appropriations Act of 2010 (P.L. 111-212), provided the Commission with \$3.8 million, available 7/29/10 – 7/28/11 to reduce the backlog of cases before the Commission. This supplemental funding enabled the Commission to add 11 FTE, which the Commission then carried over for the final two months of FY 2011, using FY 2011 funding.

Summary of Changes by Budget Authority (in millions)

Budget Authority	FY 2010 Supplemental	FY 2011	FY 2012	FY 2013	Net Change (FY 2012 to FY 2013)
Appropriations	3.800	10.337	17.604	16.000	(1.604)
Full-time Equivalent*	11	58	72	74	2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
Appropriations and FTE History

Fiscal Year	Budget Estimate to Congress	House Allowance	Senate Allowance	Appropriation	FTE¹
2000	6,159,000	6,060,000	6,159,000	6,136,000 ²	43
2001	6,320,000	6,200,000	6,320,000	6,320,000	42
2002	6,939,000	6,939,000	6,939,000	6,934,000 ³	38
2003	7,127,000	–	–	7,131,343 ⁴	35
2004	7,774,000	7,774,000	7,774,000	7,728,133 ⁵	40
2005	7,813,000	7,813,000	7,813,000	7,809,024 ⁶	40
2006	7,809,000	7,809,000	7,809,000	7,730,910 ⁷	40
2007	7,576,000	7,731,000	7,731,000	7,777,652 ⁸	44
2008	8,096,000	8,096,000	7,954,563	7,954,563	48
2009	8,653,000	8,653,000	8,653,000	8,653,000	50
2010	9,857,567	9,857,567	10,358,000	10,358,000 ⁹	63
		3,800,000	3,800,000	3,800,000 ¹⁰	17¹¹
2011	13,105,000	13,905,000	15,755,000	10,337,000 ¹²	63
2012	22,417,000	–	17,637,000	17,604,000 ¹³	72
2013	16,000,000				74(e)

(e) = estimated

¹ FTE for FY 2011 and before represent the FTE ceiling given budget authority, not the actual FTE.

² Reflects reduction of \$23,000 pursuant to the Consolidated Appropriations Act for 2000, P.L. 106-113.

³ Reflects reduction of \$5,000 pursuant to Section 1403 of P.L. 107-206.

⁴ Reflects adjustments pursuant to the Omnibus Appropriations Act, P.L. 108-7.

⁵ Reflects reduction of \$45,867 pursuant to the Consolidated Appropriations Act, P.L. 108-199.

⁶ Reflects a congressional add-on of \$59,000 and a reduction of \$62,976 pursuant to Section 122(a) of P.L.108-447.

⁷ Reflects reduction of \$78,090 pursuant to Title III, Chapter 8, of the Department of Defense Appropriations Act, P.L. 109-148.

⁸ Reflects reduction of \$144,437 pursuant to Sec. 528(a) of P.L. 110-161.

⁹ Reflects Senate Approved Mark-up of \$500,000 pursuant to P.L. 111-117.

¹⁰ Reflects supplemental funding of \$3,800,000 pursuant of P.L. 111-212.

¹¹ Temporary FTE provided July 29, 2010—July 28, 2011 though FY 2010 supplemental appropriation. The Commission carried this staff over for the last two months of FY 2011, using FY 2011 funding.

¹² Reflects reduction of \$21,000 pursuant to Sec. 1119(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011, P.L. 112-10.

¹³ Reflects reduction of \$33,334 pursuant to Section 527(a) of the Consolidated Appropriations Act, 2012, P.L. 112-74.