

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

CONGRESSIONAL BUDGET JUSTIFICATION

AND

ANNUAL PERFORMANCE PLAN



FISCAL YEAR 2022

MAY 28, 2021

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

EXECUTIVE SUMMARY

The Federal Mine Safety and Health Review Commission (FMSHRC) 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 FMSHRC and sets forth its responsibilities. The Mine Improvement and New Emergency Response Act of 2006, P.L. 109-236 (MINER Act) added an additional responsibility to FMSHRC, 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.

FMSHRC is requesting a budget level of \$17.539 million in FY 2022 to support the full-time equivalent (FTE) of 76 staff members. This budget level represents a \$0.355 million increase above the FY 2021 Enacted level of \$17.184 million to accommodate the pay raise of 2.7 percent.

Most cases that come before FMSHRC involve civil penalties proposed by the Department of Labor's Mine Safety and Health Administration (MSHA) against mine operators. FMSHRC is responsible for addressing whether the alleged violations occurred, as well as the assessment of appropriate civil penalties. Other types of cases include contests of MSHA orders to close a mine for health or safety reasons, review of MSHA's approval of operators' emergency response and other mine safety plans, miners' complaints they suffered discrimination because they exercised protected safety rights, as well as allegations of interference with the exercise of such rights, 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.

FMSHRC's Administrative Law Judges (ALJs) decide cases at the trial level. The five-member Commission provides administrative appellate review. Review of an ALJ's decision by FMSHRC 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 (*sua sponte*), may decide to review a case. A judge's decision that is not accepted for review becomes a final, non-precedential order of FMSHRC. Appeals from the Commission's decisions are to the federal courts of appeals.

Cases at the trial level are handled by FMSHRC's Office of the Chief Administrative Law Judge (OCALJ). It is estimated that the OCALJ will receive 2,412 new cases for review in FY 2022. It is estimated there will be 2,240 dispositions, and that the year-end balance will be 829 cases.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FMSHRC's Commission Review function is expected to receive 48 new cases, including 12 substantive cases and 36 default cases. FMSHRC projects that 74 undecided appellate cases will be on hand at the beginning of FY 2022, including 13 substantive cases and 61 default cases. During FY 2022, it is expected that 14 substantive cases will be disposed. The substantive case inventory at the end of the year is estimated to be 14.

Resolving 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 OGC, review and analyze extensive briefs filed by the parties, often conduct an oral argument, and issue a decision which addresses the major contentions raised by the parties.

In addition to petitions for review in substantive cases, at the appellate level FMSHRC 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. At the end of FY 2020, the number of default cases pending decision was 144. FMSHRC has prioritized the resolution of default cases and expects to clear the backlog of long-pending cases by close of the 2021 fiscal year.

FMSHRC's overall management priority continues to be the expeditious, fair, and legally sound adjudication of cases at the trial and appellate levels. In response to the COVID pandemic, FMSHRC implemented a fulltime teleworking plan for all personnel, initiated complete electronic filings and issuances and suspended in-person hearings, oral arguments and Commission meetings. These measures remain in place in 2021. Despite these significant challenges, FMSHRC continues to improve trial and appellate case pendency times, resulting in more timely resolutions for petitioners. FMSHRC is also mindful that mine emergencies and legislative changes may change the number, complexity, and complexion of cases, and affect what cases might be appealed. Our agency continues to build the systems, processes, and capacity to be scaled appropriately if new case filings increase.

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MISSION

The Federal Mine Safety and Health Review 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 authorizing statute, the Mine Act, FMSHRC 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. FMSHRC'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 FMSHRC's mission was expanded by the passage of the MINER Act in 2006. That statute amended the Mine Act and vested FMSHRC 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 FMSHRC and its ALJs with respect to these proceedings and FMSHRC has adopted procedural rules to implement those deadlines.

FUNCTIONS AND PROCEDURES

FMSHRC carries out its responsibilities through trial-level adjudication by ALJs and appellate review of ALJs' 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 the alleged safety and health violations occurred and if so, the degree of gravity and negligence involved. Other types of cases involve mine operators' contests of mine closure orders, miners' complaints they suffered discrimination because they exercised protected safety rights, allegations of interference with the exercise of such rights, miners' applications for compensation after a mine is idled by a closure order, and review of disputes about MSHA's approval of operators' emergency response and other mandatory plans.

Once a case is filed with FMSHRC, 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 an ALJ. 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 ALJ, that ALJ is responsible for the case and rules upon motions and settlement proposals. If a hearing is necessary, the ALJ schedules and presides over the hearing, and issues a decision based upon the record. An ALJ's decision becomes a final, non-precedential order of FMSHRC unless it is accepted for review by the five-member Commission.

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FMSHRC also provides administrative appellate review. It may, in its discretion, review decisions issued by ALJs when requested by a litigant, or it may, on its own initiative, direct cases for review. FMSHRC's decisions are precedential and appeals from FMSHRC'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, procurement and contracting, and facilities management.

STRATEGIC GOALS

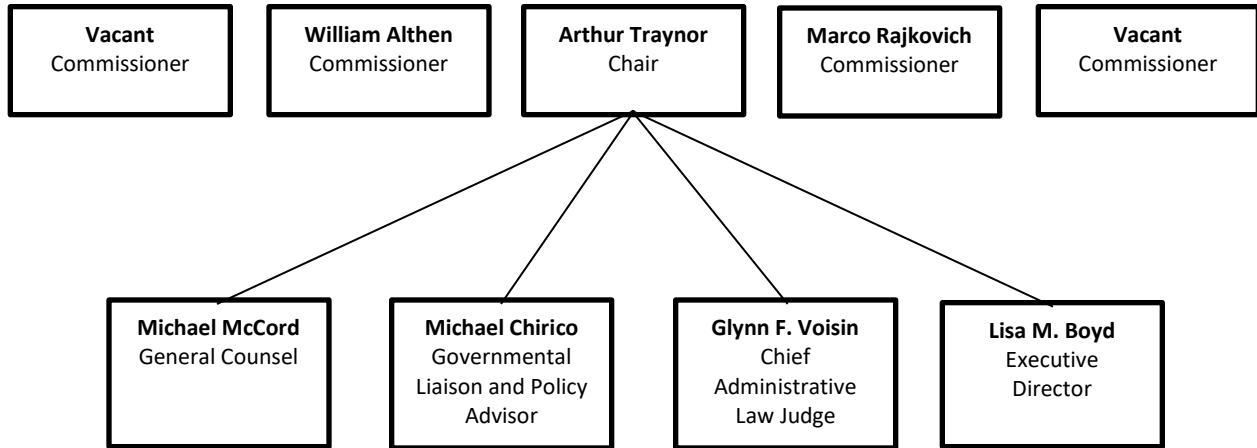
FMSHRC has two strategic goals:

Strategic Goal 1: Ensure expeditious, fair, and legally sound adjudication of cases.

Strategic Goal 2: Manage FMSHRC's human resources, operations, facilities, and information technology systems to ensure a continually improving, effective, and efficient organization.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**KEY PERSONNEL
ORGANIZATION CHART**



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

COMMISSION MEMBERS

<u>NAME</u>	<u>TERM EXPIRATION</u>
Arthur Traynor	August 30, 2022
Marco Rajkovich	August 30, 2024
William Althen	August 30, 2024

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

*For necessary expenses of the Federal Mine Safety and Health Review Commission
[\$17,184,000] \$17,539,000 (Departments of Labor, Health and Human Services, and
Education, and Related Agencies Appropriations Act, 2021.)*

Authorizing Legislation

Authorizing Legislation Containing Indefinite Authority
Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. § 801 et
seq.)

Dollars in thousands

	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Budget Authority	\$17,184	\$17,184	\$17,539
FTE	59	76	76

PRESIDENT'S PRIORITIES

COVID Response: In response to the executive order on Protecting the Federal Workforce and Requiring Mask-Wearing, FMSHRC crafted a COVID-19 Agency Safety Plan and continues to vigorously prepare for a safe return to the federal workplace for employees and our service base.

Cybersecurity/Solar Winds Response: FMSHRC will continue its efforts to respond to Presidential priorities, including cybersecurity, the *Solar Winds* response, and IT modernization. FMSHRC priorities also include modernization of the public facing website, expanding digital services to a wider user base, and modernization of information systems associated with Privacy Act processes.

Promoting Racial and Economic Equity: In response to Executive Order 13985, FMSHRC will implement initiatives to promote racial and economic equity, beginning with making our public facing website accessible to the Spanish-speaking mining community and offering documents and information processes in Spanish.

Additionally, FMSHRC is taking a structured look at our approach to Equal Employment Opportunity initiatives, trainings, hiring and policies and procedures that will enhance and strengthen our workforce.

Promoting Collective Bargaining: FMSHRC has taken steps to ensure that employees understand Executive Order 14003 and will continue to inform employees of their rights to participate in employee labor unions and collective bargaining.

Developing a Workforce for the 21st Century: FMSHRC continues to recruit, talent, both for the agency and as an entry point for more extensive Federal employment. FMSHRC will continue to leverage investments in employee training to develop a well-trained workforce.

Improving Case Processing: FMSHRC will seek to maintain improvements to trial and appellate level case pendency, with an emphasis on resolving any remaining older cases. These actions serve to provide a timely resolution to parties before FMSHRC.

Sharing Quality Services: FMSHRC will continue seeking improvement and efficiencies through Shared Service Providers. This includes interagency agreements for human resource, procurement, travel, financial management, cybersecurity initiatives with Shared Service providers. FMSHRC will also seek efficiencies where practical with other Federal entities.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

JUSTIFICATION BY FUNCTION

GENERAL STATEMENT

FMSHRC was established as an independent agency by section 113(a) of the Federal Mine Safety and Health Act of 1977. FMSHRC fulfills its mission through three functions.

The OCALJ function provides trial-level adjudication by ALJs. At the trial level, FMSHRC's ALJs hear and decide cases initiated by the Secretary of Labor, mine operators, miners, and miners' representatives.

FMSHRC Commission Review function is carried out by the Commissioners, their staff, and OGC. FMSHRC 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, FMSHRC 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.

The OED function supports both the trial-level and appellate functions by providing budget management, administrative and technical services.

In FY 2022, FMSHRC is requesting \$17.539 million and 76 FTE.

Dollars in thousands

Function	FY 2020 Actual		FY 2021 Enacted		FY2022 Request	
	FTE	Budget Authority	FTE	Budget Authority	FTE	Budget Authority
Administrative Law Judge	34	\$9,593	43	\$9,593	43	\$9,741
Commission Review	19	\$5,472	22	\$5,472	22	\$5,458
Office of Executive Director	6	\$2,119	11	\$2,119	11	\$2,340
Total	59	\$17,184	76	\$17,184	76	\$17,539

ADMINISTRATIVE LAW JUDGE FUNCTION

Administrative Law Judge Function			
Dollars in thousands			
	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Budget Authority	\$9,593	\$9,593	\$9,741
FTE	34	43	43

Introduction

FMSHRC employs ALJs to hear and decide contested cases at the trial level. The ALJs 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. FMSHRC ALJs are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

FMSHRC’s FY 2022 budget includes the following strategic objective for the ALJ function:

- Ensure timely issuance of decisions at the trial level.

FY 2022

FMSHRC’s FY 2022 budget request includes 43 FTEs and \$9.741 million for its Administrative Law Judge function.

The FY 2021 request includes law clerks, management analysts, and legal assistants to support the judges, and several docket office management analysts and clerks to maintain case files and process and record documents filed with FMSHRC. FMSHRC has established a pendency goal for trial level cases of 180 days for FY 2022. Pendency is the average time between receipt of a case and case disposition.

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FMSHRC estimates that 829 trial level cases will be pending at the beginning of FY 2022. FMSHRC anticipates that it will receive 2,412 new cases during FY 2022 and will dispose of 2,240 cases during the same period.

FY 2021

FMSHRC's FY 2021 Enacted budget level included 43 FTEs and \$9.593 million for its Administrative Law Judge function.

The FY 2021 level supports law clerks, management analysts, and legal assistants to support the judges, and several docket office management analysts and clerks to maintain case files and process and record documents filed with FMSHRC. FMSHRC has established a pendency goal for trial level cases of 180 days for FY 2021.

FMSHRC estimates that 886 trial level cases will be pending at the beginning of FY 2021. FMSHRC anticipates that it will receive 2,373 new cases during FY 2021 and will dispose of 2,320 cases during the same period.

FY 2020

FMSHRC's FY 2020 Enacted budget level for its Administrative Law Judge function was \$9.593 million and that office had a year-end total of 34 actual FTEs.

There were 1,212 trial level cases pending at the beginning of FY 2020. FMSHRC received 2,213 new cases during FY 2020 and disposed of 2,539 cases during the same period.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Administrative Law Judge Function – Caseload Data

	FY 2020	FY 2021	FY 2022
	Actual	Estimate	Estimate
Cases pending beginning of year	1,212	886	829
Assessment of civil penalty	1,130	802	713
Notice of contest	63	69	90
Discrimination and compensation	17	10	15
Other	2	5	11
New cases received	2,213	2,373	2,412
Assessment of civil penalty	1,991	2,101	2,141
Notice of contest	179	219	218
Discrimination and compensation	31	40	42
Other	12	13	11
Total case workload	3,425	3,259	3,241
Assessment of civil penalty	3,121	2,903	2,854
Notice of contest	242	288	308
Discrimination proceeding	48	50	57
Other	14	18	22
Cases disposed	2,539	2,430	2,240
Assessment of civil penalty	2,319	2,190	2,066
Notice of contest	173	198	138
Discrimination and compensation	38	35	30
Other	9	7	6
Cases pending end of year	886	829	1,001
Assessment of civil penalty	802	713	788
Notice of contest	69	90	170
Discrimination and compensation	10	15	27
Other	5	11	16

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Administrative Law Judge Function – Strategic Objectives

Strategic Objective 1.1 Ensure timely issuance of decisions at the trial level			
Performance Goal	FY 2020 Actual	FY 2021 Target	FY 2022 Target
1.1.1 Average time from receipt to disposition of all cases	161 days	180 days	180 days
1.1.2 Average time from receipt to disposition of penalty cases	153 days	180 days	180 days
1.1.3 Percent of all cases on hand over 365 days in age	1%	20%	20%

COMMISSION REVIEW FUNCTION

Commission Review Function			
Dollars in thousands			
	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Budget Authority	\$5,472	\$5,472	\$5,458
FTE	19	22	22

Introduction

The FMSHRC Commission Review function incorporates the responsibilities of the Commissioners and OGC in the appellate review function.

The five-member Commission decides two principal types of cases:

- (1) *substantive cases*, which are cases in which a judge has issued a final or interlocutory decision on the merits and FMSHRC has granted a petition for review filed by either party, or at least two Commissioners have decided to grant review on their own initiative.

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- (2) *default cases*, which are cases where an operator has failed to timely contest a proposed penalty or to timely respond to a judge's order and the operator has filed a motion to reopen the final order.

The general authority for the review of ALJs' decisions is set forth in section 113(d)(1) of the Mine Act. The Act states that an ALJ'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 FMSHRC when two or more Commissioners vote to grant a petition for discretionary review filed by a party adversely affected or aggrieved by the ALJ's decision. FMSHRC may also consider an ALJ's interlocutory ruling under certain circumstances.

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

By law, a quorum of three Commissioners is required to decide substantive cases. When FMSHRC lacks a quorum of Commissioners, it cannot issue decisions, and this affects the average time required to reach decisions. Many of FMSHRC'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 FMSHRC or the courts. Many cases involve the interpretation of safety and health standards and regulations promulgated by MSHA.

The Office of General Counsel (OGC) is responsible for conducting the initial research in substantive cases and preparing draft opinions for 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, and review of financial disclosure forms. Those duties have substantially increased with the size of FMSHRC's staff. In addition, OGC is primarily responsible for formulating and drafting FMSHRC's rulemaking initiatives, such as those involving more efficient settlement procedures and simplified proceedings for litigating certain categories of cases.

FMSHRC has established the following strategic objective for FMSHRC Commission Review function.

- Ensure timely issuance of decisions at the appellate level.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FY 2022

FMSHRC's FY 2022 budget request includes 22 FTEs and \$5.458 million for its Commission Review function.

The appellate caseload includes several types of cases, including those where by law, FMSHRC must issue rulings very quickly. For example, FMSHRC hears appeals of temporary reinstatement cases; these are discrimination cases, and pursuant to FMSHRC's procedural rules, appeals of these types of decisions must be adjudicated within an extremely short timeframe. Commissioners' workload also includes deciding whether to accept petitions for discretionary review, which by statute must generally be granted or denied within approximately ten days.

In FY 2022, it is expected that 74 substantive and default cases will be pending at the beginning of the year, and an estimated 48 new cases will be filed during the year. Approximately 57 dispositions are expected, of which an estimated 14 will be substantive cases and 43 will be default cases. It is anticipated that FMSHRC's appellate docket will contain 65 cases at the end of FY 2022. The legal proceedings involved in disposing of substantive cases are expected to average twelve months. Therefore, the cases disposed of during one year include both cases that were received in a previous year but not disposed of that year (cases pending end of year), and new cases received during the current year. FMSHRC will continue to work expeditiously to achieve the goals for case backlog and pendency.

FY 2021

FMSHRC's FY 2021 Enacted budget level included 22 FTEs and \$5.472 million for its Commission Review function in FY 2021.

The appellate caseload includes several types of cases, including those where by law, FMSHRC must issue rulings very quickly. For example, FMSHRC hears appeals of temporary reinstatement cases; these are discrimination cases, and pursuant to FMSHRC's procedural rules, appeals of these types of decisions must be adjudicated within an extremely short timeframe. Commissioners' workload also includes deciding whether to accept petitions for discretionary review, which by statute must generally be granted or denied within approximately ten days.

In FY 2021, a total of 157 substantive and default cases were pending before FMSHRC at the beginning of the year and an estimated 59 new cases will be filed during the year.

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Approximately 142 dispositions are expected, of which an estimated 12 will be substantive cases and 130 will be default cases. The number of dispositions in default cases in FY 2021 is projected to be unusually high (130) because the Commission is placing a special emphasis this year on reducing the backlog of pending default cases. It is anticipated that FMSHRC's docket will contain 74 undecided cases at the end of FY 2021. FMSHRC will continue to work expeditiously to achieve the goals for case backlog and pendency.

FY 2020

FMSHRC's FY 2020 Enacted budget level for its Commission Review function was \$5.472 million and that office had a year-end total of 19 actual FTEs.

In FY 2020, there were 95 cases before FMSHRC at the beginning of the year, and 82 new cases were filed during the year. Twenty (20) cases were disposed, of which 14 were substantive cases and 6 were default cases. FMSHRC's appellate docket contained 157 undecided cases at the end of FY 2020.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Commission Review Function - Caseload Data

	FY 2020	FY 2021	FY 2022
	Actual	Estimate	Estimate
Cases pending beginning of year	95	157	74
Substantive cases	13	13	13
Default cases	82	144	61
New cases received	82	59	48
Substantive cases	14	9	12
Default cases	68	50	36
Total case workload	177	216	122
Substantive cases	27	22	25
Default cases	150	194	97
Cases disposed	20	142	57
Substantive cases	14	12	14
Default cases	6	130	43
Cases pending end of year	157	74	65
Substantive cases	13	13	14
Default cases	144	61	51

Commission Review Function – Strategic Objectives

Strategic Objective 1.2 Ensure timely issuance of decisions at the appellate level			
Performance Goal	FY 2020 Target	FY 2021 Target	FY 2022 Target
1.2.1 Average time to issuance of decision	12 months	12 months	12 months
1.2.2 Average time from briefing completion to issuance of decision	9 months	9 months	9 months
1.2.3 Percent of cases on hand over 18 months in age	20%	20%	20%

Strategic Objective 1.3 Issue orders in motions to reopen cases in a timely manner			
Performance Goal	FY 2020 Target	FY 2021 Target	FY 2022 Target
1.3.1 Average time to issuance of final order	120 days	120 days	120 days

Goal 1.2.1 measures the average time period from the date that review is granted to the date of issuance of a decision

OFFICE OF THE EXECUTIVE DIRECTOR FUNCTION

Office of the Executive Director Function			
Dollars in thousands			
	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Budget Authority	\$2,119	\$2,119	\$2,340
FTE	6	11	11

Introduction

The Office of the Executive Director (OED) function is led by the Executive Director and provides administrative services to support FMSHRC in fulfilling its mission and strategic goals. The primary functions are financial management, human resources, procurement and contracting, information technology, facilities management, and general administrative service support.

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

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

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

Information technology includes help desk functions, network administration, Cybersecurity oversight and implementation, policy formulation, and telecommunications.

Facilities management includes property and space management, OSHA Compliance, emergency evacuation, and physical security.

OED's other general administrative services include oversight and administering employee travel authorizations and reimbursements and the metro subsidy program.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

The OED function supports Strategic Goal 2 outlined in FMSHRC's Strategic Plan. OED, in coordination with FMSHRC's Senior Management Team, support the following objectives:

- Maintain and enhance secure electronic information systems for case management, legal research, management operations support, public access to data through the internet, and continuity of FMSHRC's operations during national emergencies or natural disasters which may disrupt normal office operations;
- Recruit, train, and retain a diverse workforce of skilled, highly motivated employees to effectively and efficiently accomplish FMSHRC's mission; and
- Develop and maintain a Cybersecurity Risk Management Strategy for FMSHRC's network infrastructure in order to assess, respond, detect and prevent, and monitor risk, to protect FMSHRC's resources.

FY 2022

FMSHRC's FY 2022 budget request includes 11 FTEs and \$2.340 million for its Office of the Executive Director function.

FY 2021

FMSHRC's FY 2021 Enacted budget level included 11 FTEs and \$2.119 million for its Office of the Executive Director function.

FY 2020

FMSHRC's FY 2020 Enacted budget level was \$2.119 million for its Office of the Executive Director function and that office had a year-end total of 6 actual FTE's.

TABLES

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Budget Authority by Object Class

FY 2022 Budget Request by Object Class

Dollars in thousands

	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Personnel Compensation	7,813	9,458	9,920
Other than Full-Time Permanent	<u>0</u>	<u>0</u>	<u>0</u>
Total, Personnel Compensation	7,813	9,458	9,920
Personnel Benefits, Civilian	2,487	2,572	2,698
Benefits to Former Employees	10	10	10
Travel and Transportation of Persons	47	8	151
Transportation of Things	16	12	11
Rental Payments to GSA	1,977	1,995	1,875
Communications, Utilities, and Misc.	528	733	807
Printing and Reproduction	15	9	15
Other Services	2,691	2,279	1,721
Supplies and Materials	53	48	150
Equipment	162	120	181
Unobligated	1,385	-	-
Total	17,184	17,184	17,539

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Personnel Summary

	2020 Enacted Actual	2021 Enacted Estimate	2022 Request Estimate
Executive Level III	1	1	1
Executive Level IV	2	4	4
Executive Schedule	3	5	5
ES	1	2	2
Senior Executive Service	1	2	2
AL-2	1	1	1
AL-3	11	11	11
Administrative Law Judges	12	12	12
GS-15	6	7	7
GS-14	9	9	9
GS-13	4	5	5
GS-12	7	16	16
GS-11	5	5	6
GS-9	4	13	13
GS-8	7	1	1
GS-7	3	1	1
General Schedule	45	57	57
Total Permanent Full-Time Positions	59	76	76
Unfilled Positions, end-of year	17	-	-
Total, Full-Time Permanent Employment, (authorized)	76	-	-
Cumulative Full-Time Equivalent (FTE) usage	60	-	-

Average Salaries

	FY 2020 Enacted (Actual)	FY 2021 Enacted (Estimate)	FY 2022 Request (Estimate)
Average EX Salary	\$160,609	\$161,800	\$166,169
Average ES Salary	\$173,300	\$175,033	\$179,221
Average AL Salary	\$176,900	\$183,315	\$188,249
Average GS Salary	\$98,075	\$101,718	\$110,182

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**Amounts Available for Obligation
(in millions)**

	FY 2020 Actual		FY 2021 Enacted		FY 2022 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
Appropriation	59	\$17.184	76	\$17.184	76	\$17.539

**Summary of Changes by Budget Authority
(in millions)**

Budget Authority	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request	Net Change (FY 2021 to FY 2022)
Appropriations	\$17.184	\$17.184	\$17.539	+\$0.355
Full-time Equivalent	59	76	76	0

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Appropriations and FTE History

Fiscal Year	Budget Estimate to Congress	House Allowance	Senate Allowance	Appropriation	FTE ¹
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 ²	63
Supplemental		3,800,000	3,800,000	3,800,000 ³	17 ⁴
2011	13,105,000	13,905,000	15,755,000	10,337,000 ⁵	63
2012	22,417,000	–	17,637,000	17,604,000 ⁶	72
2013	16,000,000	--	--	16,683,000 ⁷	74
2014	16,423,000	--	--	16,423,000	82
2015	17,601,000	--	--	16,751,000	73
2016	17,085,000	--	--	17,085,000	72
2017	17,184,000	--	--	17,184,000	65
2018	17,053,000	--	--	17,184,000	60
2019	17,053,000	-	-	17,184,000	66
2020	17,184,000	-	-	17,184,000	59
2021	17,184,000	-	-	17,184,000	76*
2022	17,539,000				76*

*Estimated FTE Level

¹ FTE for FY 2013 and before represent the FTE ceiling given budget authority, not the actual FTE.

² Reflects Senate approved mark-up of \$500,000 pursuant to P.L. 111-117.

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

⁴ 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.

⁵ Reflects reduction of \$21,000 pursuant to Sec. 1119(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2013, P.L. 112-10.

⁶ Reflects reduction of \$33,334 pursuant to Section 527(a) of the Consolidated Appropriations Act, 2013, P.L. 112-74.

⁷ Reflects the post-sequester 2013 Continuing Resolution level.