
The U.S. Occupational Safety and Health Review Commission
Strategic Plan
2014 – 2018



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I. Executive Summary

Mission

Adjudication of workplace safety and health disputes under the Occupational Safety and Health Act of 1970.

Vision

A judicial body that is recognized for being objective, fair, prompt, professional, and respected, and creates and explains a body of law through its decisions that define and clarify the rights and responsibilities of employers and employees under the Act.

Values

Serving as an administrative court at the hearing and appellate levels, the Review Commission's values and core principles include:

- Respect for the rule of law, including due process and fidelity to the agency's mission.
- Issuance of quality decisions at both levels of Review Commission adjudication.
- Professionalism, collegiality and mutual respect among Commissioners, administrative law judges and staff.
- The highest ethical standards and integrity in all we do.
- Teamwork and collaboration, as befits a collegial adjudicatory body.
- Openness, transparency and stakeholder engagement.
- Responsible stewardship of Federal resources entrusted to the agency.
- Investing in and valuing the agency's human capital.

Goals

- Strategic Goal # 1 – Respect for the rule of law by assuring fair, just, and expeditious adjudication of disputes brought before the Commission and its judges.
- Strategic Goal # 2 - Expanding transparency and openness by providing for stakeholder engagement and ensuring that the Review Commission keeps interested parties and the public it serves informed of the agency's work at all levels, consistent with due process requirements.
- Strategic Goal # 3 - Responsible stewardship of resources to enhance Agency operations and efficiencies in information management, financial management, human resources, and real property to accomplish the agency's statutory and regulatory mandates.

II. Introduction

The U.S. Occupational Safety and Health Review Commission (“Review Commission”) is committed to ensuring that all parties who come before it - employers, employees, employee representatives, and the U.S. Department of Labor - receive fair and timely resolution of safety and health disputes in American work places. Consistent with the behavior of highly effective organizations and the Administration’s commitment to ensure an open and accountable Federal Government, the Review Commission is reassessing the environment within which it operates to become a more responsive organization – both to the parties who appear before us, as well as to our own employees.

In our previous strategic plan, developed in 2009, the Review Commission pledged to resolve the oldest cases on the Review Commission docket, some dating back to the mid-1990s. In particular, we defined a group of ten “legacy cases” – cases docketed at the Commission level prior to 2008 – and promised to resolve them all by the end of fiscal year 2011. We kept that promise. In resolving all of the legacy cases by the end of fiscal year 2011, we achieved a tremendous victory. But we also recognized that unless we invest in understanding how we amassed a backlog of old, complex cases at the Review Commission level, we would be destined to repeat that past of ineffective case management. To be effective, we must ensure that all of our systems are in sync with the values and guiding principles reflected in this strategic plan and supported by sound management practices. As our next step, we have undertaken a serious effort to build a legacy of innovative and effective case resolution at the Commission level by evaluating our processes to help ensure that the Review Commission will not be facing a similar buildup of older cases in the future. In addition, we are expanding our self-improvement efforts beyond case resolution by creating a blueprint of sustainable, innovative and efficient management at the Review Commission.

First, this strategic plan focuses on the importance of minimizing the average age of the agency’s oldest cases and continuing to reduce, in a realistic way, the average age of all pending Commission-level cases. Second, to the extent consistent with the agency’s statutory authority, the Review Commission is seeking to enhance the transparency of its operations. Third, the Review Commission has established a working group to evaluate the costs and efficiencies gained through electronic filing (e-filing) of documents before the Commission. Finally, this strategic plan addresses employee development indicators – specifically ensuring that staff are adequately trained and developed and that the agency takes advantage of the latest thinking in information sharing, e.g., adoption of knowledge management techniques.

At the Administrative Law Judge (ALJ) level, this strategic plan includes separate, updated targets based on the complexity and type of the case (simplified, complex, settlement part or conventional), to better reflect the Review Commission’s recent experience. Our Government Performance and Results Act (GPRA) results at the ALJ level have been impacted by a marked increase in the number of citations being contested and the resulting number of contests being docketed. In FY 2009, the Review Commission docketed 2,058 contests, whereas in FY 2010, 2,565 were docketed. This represents an increase of approximately 25 percent in one fiscal year. In FY 2011, the Review Commission received 3,175 new cases, which is an increase of over 50 percent over two years. Moreover, following OSHA’s implementation of a new penalty

assessment policy at the beginning of FY 2011, the average penalty for a serious violation has increased, and the contest rate (as estimated by OSHA) has increased from seven percent in FY 2009 to eleven percent in FY 2011 and FY 2012, which contributed to the increase in our caseload. While recent data suggest that the number of new cases may be stabilizing (the Review Commission docketed 2,696 contests in FY 2012), our FY 2012 case intake was 31 percent above that of FY 2009. At the same time, our case inventory at the end of FY 2012 was 48.5 percent above that of FY 2009.

This strategic plan has been developed in accordance with the GPRA Modernization Act of 2010 (GPRA). The agency's annual performance budget will set forth specific performance goals and measures. Individual outcome measures will be established to evaluate the effectiveness of the following strategic goals: 1) Respect for the rule of law; 2) Expanding transparency and openness; and 3) Responsible stewardship of resources to enhance agency operations and efficiencies.

III. Background on the Review Commission

The Review Commission is an independent, adjudicatory agency created by the Occupational Safety and Health Act of 1970 (Act), 29 U.S.C. §§ 651-678. Its sole statutory mandate is to serve as a federal administrative court providing just and expeditious resolution of disputes involving the U. S. Department of Labor's Occupational Safety and Health Administration (OSHA), the employers OSHA has charged with violations of federal safety and health standards, and employees and/or their representatives. Under the statutory framework enacted by Congress, the Review Commission is completely separate from and independent of the Department of Labor and OSHA.

The Act and the Review Commission's Rules of Procedure provide two levels of adjudication. The first level provides an employer and/or affected employee who files a timely notice of contest with an opportunity for a hearing before a Review Commission ALJ. The ALJ's decision becomes a final order under the Act unless a member of the Review Commission exercises his/her discretion to direct the case for review. The second level involves the Review Commission's review of an ALJ decision. The Review Commission has three members, appointed by the President and subject to Senate confirmation, who serve six-year terms. Both before its ALJs and the Members of the Review Commission, the agency seeks to provide fair, impartial, and timely adjudication of the cases concerning the safety and health of employees working in the United States.

The principal (National) office of the Review Commission is located in Washington, D.C. There are also two regional offices, one in Atlanta and one in Denver, where additional Review Commission ALJs and staff are assigned.

IV. Mission Statement

The mission of the Review Commission is to provide an impartial forum for the just and prompt adjudication of workplace safety and health disputes involving the Department of Labor, employers, and employees and/or their representatives under the Occupational Safety and Health Act of 1970.

V. Vision Statement

The Review Commission strives to be:

- A judicial body that is -- and is recognized for being -- objective, fair, prompt, professional, and respected.
- An agency that creates a body of law through its decisions that define and clarify the rights and responsibilities of employers and employees under the Act.
- A model Federal agency with highly effective processes, a highly motivated, qualified and diverse workforce, and modern information management, communications, and administrative systems.
- An agency that values teamwork, develops its employees, and strives to improve its performance, service, and value to the American people.

VI. Values

The Review Commission is an independent Federal administrative agency that decides contests of OSHA-issued citations. As such, the agency functions as an administrative court and includes both hearing level and appellate review functions. Accordingly, the following values are characteristic of the Review Commission's core principles:

- Respect for the rule of law, including due process and fidelity to the agency's mission.
- Issuance of quality decisions at both levels of Review Commission adjudication.
- Professionalism, collegiality and mutual respect among Commissioners, administrative law judges and staff.
- The highest ethical standards and integrity in all we do.
- Teamwork and collaboration, as befits a collegial adjudicatory body.
- Consistent with due process requirements, openness, transparency and stakeholder engagement.
- Responsible stewardship of Federal resources entrusted to the agency.
- Investing in and valuing the agency's human capital.

VII. Strategic Goals

The Review Commission’s strategic plan is focused on the attainment of three separate goals:

1) Respect for the rule of law by assuring fair, just, and expeditious adjudication of disputes brought before the Commission and its judges; 2) Expanding transparency and openness by providing for stakeholder engagement and ensuring that the Review Commission keeps interested parties and the public it serves informed of the agency’s work at all levels, consistent with due process requirements; and 3) Responsible stewardship of agency resources to enhance operations and efficiencies and information technology, financial management, human resources, and real property to accomplish the agency’s statutory mandate and other applicable law.

The Review Commission has set measurable, outcome-oriented objectives that advance the agency’s ability to meet these goals. The agency will include its strategic goals and performance objectives and their associated measures in the annual performance plans as part of its performance budget. The Review Commission has established performance goals to assist it in achieving its strategic goals as summarized below:

<p>Strategic Goal # 1 – Respect for the Rule of Law</p> <p><i>Respect for the rule of law by assuring fair, just, and expeditious adjudication of disputes brought before the Commission and its judges.</i></p>	<p>Performance Goals¹</p> <ol style="list-style-type: none"> 1. Develop and implement case management practices that will minimize the average age of all pending Commission-level cases. 2. Further reduce the average age of the oldest pending Commission level cases.² 3. Resolve all priority cases in a timely manner.³ 4. Ensure that a significant proportion of both complex and non-complex cases at the
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¹ These goals will not apply to cases that are stayed at the Review Commission because criminal law investigations or prosecutions are being pursued.

² The Commission intends to further reduce the average age of the oldest fifteen (15%) percent of pending cases. External factors, such as lack of a quorum or recusal of a Commissioner, may adversely affect the Commission’s ability to meet these goals. See “External Factors” on page 14.

³ Priority cases include Federal Rule of Civil Procedure (“FRCP”) 60(b) cases, Commission Rule (“CR”) 101(a) defaults, court remands, and interlocutory reviews. However, some FRCP 60(b) and CR 101(a) cases—those with significant threshold issues—are not treated as priority cases because of the complexity of those issues. Also, where the parties have indicated intent to settle a priority case, the time frame will be tolled.

	<p>ALJ level are resolved within one year to 20 months from docketing.⁴</p> <p>5. Improve training opportunities for administrative law judges.</p>
<p>Strategic Goal # 2 -- Expanding Transparency and Openness</p> <p><i>Expanding transparency and openness by providing for stakeholder engagement and ensuring that the Review Commission keeps interested parties and the public it serves informed of the agency's work at all levels, consistent with due process requirements.</i></p>	<p>Performance Goals</p> <ol style="list-style-type: none"> 1. Ensure that the Review Commission's website is accessible to people with disabilities and serves as a useful repository for information about the agency and its adjudicatory activities. 2. Produce timely and accurate reports on the Review Commission's activities, including all reports required by law. 3. Enhance the agency's FOIA processing system by developing internet-based capabilities. 4. Broaden the Review Commission's outreach activities with other Federal agencies and the affected public, including targeted education and outreach for individuals with limited English proficiency (LEP). 5. Publish significant procedural decisions and non-dispositive orders separately from other decisions.
<p>Strategic Goal # 3 – Responsible Stewardship of Resources to Enhance Agency Operations and Efficiencies</p>	<p>Performance Goals</p> <ol style="list-style-type: none"> 1. Develop and present an annual budget and performance plan that clearly present how the organization will accomplish

⁴ Complex cases have one or more of the following characteristics: intricacies of the law; number of parties; volume of documents, including transcripts; large number of witnesses (including expert witnesses in such fields as engineering, architecture, construction, soil, physics, epidemiology, pathology, neurology and infectious diseases); length of the trial; large proposed penalties; number of alleged violations, items (including distinct and separate items), and affirmative defenses; technical, novel, difficult or new standards raised; type of cases, such as those involving toxins (such as asbestos and lead); or extensive pre-trial discovery, including large numbers of interrogatories, conferences, and motions.

<p><i>Responsible stewardship of Agency resources to enhance operations and efficiencies in information technology, financial management, human resources, and real property to accomplish the agency’s statutory and regulatory mandates.</i></p>	<p>government-wide management priorities, agency-wide goals, and organizational goals.</p> <ol style="list-style-type: none"> 2. Implement a comprehensive human capital plan designed to recruit, retain and develop staff; support succession planning by strategically aligning present and future human capital needs and workforce planning; and evaluate the performance management system based on individual and organizational effectiveness. 3. Integrate knowledge management processes into a plan to capture, share and generate knowledge and establish a unified knowledge network of people, processes and technology to enhance operations and efficiencies in all aspects of essential Agency operations. 4. Improve technology infrastructure through efficiencies and investments (e.g., training, equipment, and services) to support the effective use of broadband, cyber security, and energy efficiency. 5. Use existing and real property more effectively by implementing energy efficiency practices, space alignment efforts (e.g., sustainability) and expanding telework.
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VIII. Strategic Plan Linked to Annual Performance Plan

The Review Commission will formulate performance measures for its strategic goals and each of the related outcome performance goals. The performance measures will be identified in the annual performance budget. They will be used to determine the achievement of the strategic and performance goals. These measures will be assessed using concrete and clearly observable outcomes based on the Review Commission’s annual performance plan.

The table below illustrates the relationships between the performance goals in the strategic plan and the potential performance measures currently being considered for inclusion in the Review Commission’s performance plan.

STRATEGIC PLAN PERFORMANCE GOALS AND PERFORMANCE PLAN MEASURES

PERFORMANCE GOALS	PERFORMANCE MEASURES	FY 2018 TARGETS
Strategic Goal # 1		
1. Develop and implement case management practices that will minimize the average age of all pending Commission-level cases.	-Average age of all pending Commission-level cases.	-Average age of all pending Commission-level cases twenty months or less.
2. Further reduce the average age of the oldest pending Commission level cases.	-Using experience gained from the recent disposition of the legacy cases, as well as recommendations derived from Commission’s public meeting on legacy cases, to develop and implement case management practices that minimize the average age of the oldest fifteen (15%) percent of pending cases. ⁵	-All new procedures developed and implemented by the end of fiscal year 2018. A 25% reduction in the average age of those cases from fiscal year 2013.
3. Resolve all priority cases in a timely manner.	-Percent of priority cases disposed of within 6 months.	-Dispose of 100% of all priority cases within 6 months of designation.

⁵ The Review Commission’s Strategic Plan that covered FY 2010-2015 defined legacy cases as “all cases docketed at the Commission level prior to 2008.”

PERFORMANCE GOALS	PERFORMANCE MEASURES	FY 2018 TARGETS
4. Ensure that a significant proportion of both complex and non-complex cases at the ALJ level are resolved within one year to 20 months from docketing. ⁶	<ul style="list-style-type: none"> -Percent of simplified cases - disposed of within one year at ALJ level. -Percent of conventional cases disposed of within 17 months. -Percent of settlement part cases disposed of within 19 months. -Percent of complex cases disposed of within 20 months at ALJ level. 	<ul style="list-style-type: none"> -Dispose of 98% of simplified cases within one year. -Dispose of 95% of conventional cases within 17 months. -Dispose of 98% of settlement part cases within 19 months. -Dispose of 95% of complex cases within 20 months.
5. Improve training opportunities for administrative law judges.	-Time and resources dedicated to judicial training with special emphasis on mediation and dispute resolution.	-An appropriate allocation of time and resources reflective of the number of ALJs.
Strategic Goal # 2		
1. Ensure that the Review Commission's website is accessible to people with disabilities and serves as a useful repository for information about the agency and its adjudicatory activities.	-Timeliness of postings to agency web site.	-All material to be posted no later than 7 days after issuance.
2. Produce timely and accurate reports on the Review Commission's activities, including all reports required by law.	-Timeliness of submissions of required reports, e.g., financial statements, OMB, OPM, and EEO reports, etc.	-All material to be submitted by required deadlines.

⁶ Except for mandatory settlement cases, which are assigned by the Chief Judge upon receipt from the Executive Secretary's Office, judges are not assigned cases until initial pleadings have been filed. This assignment generally occurs approximately 60 days after the case has been docketed due to the parties' frequent requests for extensions of time for filing initial pleadings.

PERFORMANCE GOALS	PERFORMANCE MEASURES	FY 2018 TARGETS
3. Enhance the agency's FOIA processing system by developing internet-based capabilities.	-Development of an electronic form and/or request tracking capability.	-Implementation of tools and resources to be used for processing and expediting FOIA requests electronically.
4. Broaden the Review Commission's outreach activities with other Federal agencies and the affected public, including targeted education and outreach for individuals with limited English proficiency (LEP).	-Participation in professional conferences and meetings and strategic engagement with stakeholders.	-Increased participation in activities and meetings that promote strategic engagement to disseminate information including trends and services (e.g., LEP) provided by the agency. -Evaluation and analysis of LEP services (projected implementation of LEP Plan in FY 2014).
5. Publish significant procedural decisions and non-dispositive orders separately from other decisions.	-Key decisions and orders published within 4 months of the order.	-FY 2015 20 key decisions and orders published annually.
Strategic Goal # 3		
1. Develop and present an annual budget and performance plan that clearly present how the organization will accomplish government-wide management priorities, agency-wide goals, and organizational goals.	-System that links resources to specific activities that support measurable programmatic outcomes and objectives.	-Implementation of a measurement system to assess and report on progress of financial management improvements and budget integration management reforms.

PERFORMANCE GOALS	PERFORMANCE MEASURES	FY 2018 TARGETS
2. Implement a comprehensive human capital plan designed to recruit, retain and develop staff; support succession planning by strategically aligning present and future human capital needs and workforce planning; and evaluate the performance management system based on individual and organizational effectiveness.	- Increase personnel capabilities and development by improving training opportunities.	- One percent of basic payroll devoted to staff training and development.
3. Integrate knowledge management processes into a plan to capture, share and generate knowledge and establish a unified knowledge network of people, processes and technology to enhance operations and efficiencies in all aspects of essential Agency operations.	<ul style="list-style-type: none"> - Conduct periodic knowledge audits to identify sources of knowledge and “at risk” knowledge gaps.⁷ - Tailor IT infrastructure to support the effortless sharing and transfer of knowledge. - Degree to which best practices and lessons learned are integrated into the performance management system. 	<ul style="list-style-type: none"> - Knowledge gaps in essential agency programs are identified and addressed through an on-going annual evaluation. - Annual audit to ensure that technology is aligned with the needs of the Agency’s people and processes. - Use of the performance planning process to reflect the value of rewarding employees for creating, using, and sharing knowledge.

⁷ Areas identified as potential “at risk” knowledge gaps include programs and functions where a subject matter expert is eligible to leave the Agency (through retirement or career transition) in one to three years and no backup expert has been identified to assume the duties and responsibilities vacated.

PERFORMANCE GOALS	PERFORMANCE MEASURES	FY 2018 TARGETS
<p>4. Improve technology infrastructure through efficiencies and investments (e.g., training, equipment, and services) to support the effective use of broadband, cyber security, and energy efficiency.</p>	<ul style="list-style-type: none"> -Streamline operations and infrastructure to eliminate duplication; minimize servers, storage and application sprawl. -Maintain standardized platforms including hardware and software. -Improve network/communications to ensure customers can access necessary information without delay. 	<ul style="list-style-type: none"> -Reduce physical servers through virtualization. -Reduce the number of operating systems in use. -Increase bandwidth for migration to cloud efficiencies.
<p>5. Use existing real property more effectively by implementing energy efficiency by implementing energy practices, space alignment efforts (e.g., sustainability) and expanding telework.</p>	<ul style="list-style-type: none"> -Implement measures to reduce operating expenses when negotiating lease and develop a system to evaluate areas of consumption that impact sustainability. 	<ul style="list-style-type: none"> -Achieve a 15 percent reduction in operating expenses through sustainability efforts.

IX. Strategies for Improving Public Service

The Review Commission's strategies for achieving its public service goals are outlined below.

A. COMMISSION LEVEL

- Focus on reducing the average age of the oldest pending cases and of all pending cases, with immediate aim of developing and implementing improvements in case management.
- Expedite the disposition of priority cases that are designated as requiring rapid action (e.g., court remands, interlocutory reviews, and Rule 60(b) cases), such that they are disposed of within six months of designation.
- Expand knowledge management and research tools to accelerate the preparation of cases and issuance of Commission decisions.
- Assess whether to establish an ADR program at the Review Commission level.
- Identify and provide training opportunities to all agency attorneys and support staff that will enhance their capabilities, such as training on technical and legal issues, legal writing, ethics, and technology and case management.
- Use individual performance plans that support priorities in the Review Commission's strategic and annual performance plans.
- Assign teams of attorneys and other staff to large, complex cases to speed their preparation and issuance.
- Implement appropriate changes to the Agency's procedures to improve case processing at the Commission level.

B. ALJ LEVEL

- Expedite the assignment of cases to judges.
- Use objective criteria to designate complex cases and track the processing of these cases.
- Closely monitor case performance, and improve case management information systems and reports.
- Conduct early review and screening of potentially complex cases to expedite the disposition of such cases.
- Implement appropriate changes in the agency's Rules of Procedure to improve case processing (e.g., Mandatory Settlement Part and Simplified Proceedings), and seek new alternative dispute resolution (ADR) methods, including a review of recommendations resulting from the evaluation of the Mandatory Settlement Part.
- Provide training to all judges on a variety of subjects, including technical and legal

issues, legal writing, case management, and ADR to help them develop services and processes equal to the very best in judicial arenas.

- Continue to use a team of judges to handle, on a rotational basis, extremely complex cases and assign appropriate staff to timely process and monitor such cases, including settlement discussions.

C. EXECUTIVE DIRECTOR LEVEL

- Develop and present an annual budget and performance plan that clearly present how the organization will accomplish government-wide management priorities, agency-wide goals, and organizational goals.
- Provide greater public access to Review Commission activities, information and decisions, including education and outreach for LEP individuals and posting procedural decisions and non-dispositive orders on the Review Commission's website.
- Improve the efficiency of filing documents by implementing technology that enables electronic transmission of information required by the Review Commission (e.g., e-filing and FOIA requests).
- Create a culture that incorporates core values and provides a work environment that encourages diversity and workplace policies and programs that enable employees to excel, including special emphasis programs (People with Disabilities, Federal Women's Program, Hispanic Employment Program), telework initiatives, family-friendly initiatives, and wellness programs.
- Assess employees' training needs and align resources allocated for training in the Agency's budget.
- Implement knowledge management practices to ensure that knowledge affecting essential agency programs and operations is captured, shared and generated on a continuous basis.
- Increase efficiencies in the IT infrastructure to enhance on-line research capabilities, library services, and telecommunications networks to ensure the use of state-of-the-art technologies and practices.
- Continue to enhance the agency's IT security program plan and provide IT security awareness training.

X. External Factors

A. OSHA ENFORCEMENT

The factors which most influence the agency's workload, and hence its strategies, are: the number of safety and health inspections carried out by OSHA each year, the nature of those inspections, and the number and characterization of violations and total penalties proposed by OSHA in each citation, all of which have historically been associated with increases in the contest rate and total number of contested citations. There has been an increase in recent years in both the level of proposed penalties and the contest rate. This has translated into an increase in both the total number of contested cases and the number of complex cases, which typically have longer and more costly trials. Consequently, as discussed previously with respect to the ALJ caseload increase, the overall workload has increased both at the Administrative Law Judge and at the Commission levels.

B. REVIEW COMMISSION MEMBERSHIP

Achieving the goals depends on having a quorum, as well as the number of sitting Commissioners, as Review Commission member vacancies directly affect the agency's performance at the appellate level. The Act requires the affirmative votes of two Commissioners to decide a pending case. During periods when the Review Commission lacks the statutory quorum of two Commissioners, no cases can be decided, although one Commissioner can direct a case for review. Moreover, with only two Commissioners it can be more difficult to reach an agreement sufficient to dispose of a pending case as both must agree on all of the issues in the matter. Over the seven-year period starting with FY 2005 and continuing into FY 2012, the Review Commission has been without a third Commissioner for extended periods of time.⁸ With fewer than three members, deadlocks on votes may result ("impasses"), action on important issues may be postponed, and action on pending cases may be delayed. In addition, a large and/or complex case has a greater likelihood of impasse with only two Commissioners. Furthermore, individual Commissioners may be recused from specific cases (there is currently one such matter), with the result that action on this case is impossible with only two Commissioners.

This strategic plan assumes that all three Commissioner positions will be filled. With a full complement of Commissioners on board, the Review Commission is optimistic that it can meet its high goals set forth for appellate level decision-making. To the extent that the agency operates with less than a full complement of Commissioners, achieving the goals in this strategic plan will be more difficult.

⁸ There were significant periods of time during which the Review Commission operated without a full Commission from FY 2005 through FY 2012. For example, from April 28, 2005 through June 8, 2006, which is 407 days, the Commission operated with only two Commissioners. A subsequent vacancy of 993 days existed on the Commission from April 28, 2007 through February 15, 2010. Then, ending in FY 2012, the Agency operated without a full Commission for 521 days (April 28, 2011 through September 30, 2012).

C. NATURE OF CASES AT THE REVIEW COMMISSION LEVEL

The Review Commission's goal in managing case production is to manage case inventory so as to minimize the average age of pending cases as well as the average age of its oldest cases. However, the increasing complexity of the cases at the trial level may result in a higher percentage of cases being petitioned for review.

D. NATURE OF CASES AT THE ALJ LEVEL

There are also a variety of factors that could affect the Review Commission's ability to meet its goal at the ALJ level. These include: (1) the magnitude and nature of the cases received, (2) the success of Simplified Proceedings and Mandatory Settlement procedures in reducing the length, complexity or number of hearings needed, and (3) the number, length, and complexity of hearings held. In 2005, the Review Commission revised its Rules of Procedure. Several changes were implemented in the Revised Rules including the lowering of the threshold for cases eligible for mandatory settlements and the raising of the aggregate penalty for entry of cases into Simplified Proceedings. While the agency has revised its Rules of Procedure to change the threshold for case eligibility, the impact of the changes must be monitored to ensure that intended results of more efficient case processing and disposition are achieved.

E. LEGISLATIVE AND REGULATORY CHANGES

Regulatory changes by OSHA or statutory changes in the Act could potentially affect the Review Commission's ability to meet the goals of this plan.

F. ADDITIONAL FACTORS

Additional factors affecting the Review Commission's ability to meet its strategic plan goals include adequate funding, and the ability to recruit and retain qualified personnel for this specialized area of federal safety and health law.

XI. Consultation Planning Process

In developing this plan, the agency relied on an analysis of case processing procedures, case processing statistics from its case tracking system, the fiscal year 2011 and 2012 performance report, and the agency's internal progress reports for the fiscal year 2012 and 2013 performance plan. The agency also reviewed plans of other Federal adjudicative agencies during the drafting stage of this plan.

The Review Commission will submit copies of the updated plan to Congressional committees, post the plan on its Internet website, and distribute the plan to the trade press, trade associations, labor unions, the OSHA Bar, and the Department of Labor.

XII. Program Evaluation

Over the next several years, the Review Commission plans to conduct evaluations and continue ongoing evaluations that will provide information the agency can use to improve its operations, processes, and procedures. The program evaluations required under GPRA will be included in each of our annual performance budgets. The agency's evaluation schedule is noted below:

- Evaluate/monitor electronic filing of legal documents.
- Evaluate the security of information technology systems and security management measures through the annual FISMA Audit.
- Evaluate Agency procedures governing budget and finance, procurement, human resources, and time and attendance as part of the Administrative Oversight Audit.
- Coordinate and schedule audit of the Agency's EEO program (e.g., reporting, complaint processing, and education and outreach).