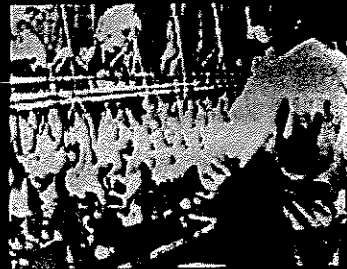
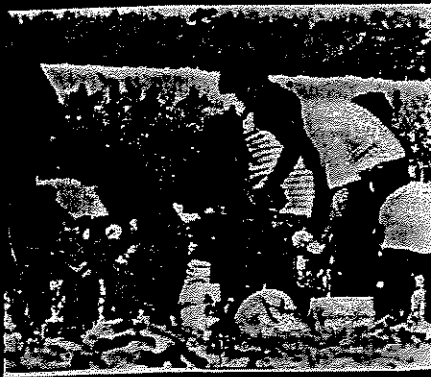


U.S. Department of Labor

1999 - 2000 REPORT ON INITIATIVES

**Employment Standards Administration
Wage and Hour Division**



U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division

Report on 1999 and 2000 Accomplishments
February 2001

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Forward

This is the second report by the Wage and Hour Division on initiatives to achieve compliance with the Nation's most basic labor laws—especially in low-wage industries. The report covers Wage and Hour's activities in 1999 and 2000.

The first report, the *1998 Report on Low-Wage Initiatives*, was issued in February 1999.

Wage and Hour Division Mission

To achieve and promote compliance with labor standards through enforcement, administrative, and educational programs to protect and enhance the welfare of the Nation's workforce.

The U.S. Department of Labor's Wage and Hour Division is responsible for administering and enforcing a number of laws that establish minimally acceptable standards for wages and working conditions in this country. These labor standards statutes—including the Fair Labor Standards Act (FLSA), which sets the minimum wage, overtime standards and child labor restrictions—protect the most vulnerable in the workplace, *i.e.*, low-wage workers, the working poor and children.

Nationwide, Wage and Hour has approximately 1,500 employees. By the end of 2000, 949 of Wage and Hour staff were field investigators—a 21% increase since 1996. These new staff, many of whom are bilingual, have been deployed to those areas of the country where there are large numbers of low-wage workers and levels of compliance are low.

In both 1999 and 2000, the agency received additional funding from Congress. The agency's 2000 operating budget was \$141.9 million—up 17% from the 1998 level, and included additional funds sought and obtained to:

- Hire 36 additional investigators in 1999 and 30 in 2000 to enhance compliance activities, including child labor, in garment manufacturing and agriculture;
- Implement a nationwide education initiative through non-traditional partnerships with

The **Wage and Hour Division** is responsible for ensuring labor standards compliance in more than 7 million workplaces and protecting nearly 130 million workers. The agency seeks to achieve compliance with labor standards through its enforcement program, while promoting voluntary compliance through compliance education. Wage and Hour is responsible for enforcing and achieving compliance with:

- ◆ The Fair Labor Standards Act
- ◆ The Family and Medical Leave Act
- ◆ The Migrant and Seasonal Agricultural Worker Protection Act
- ◆ Field sanitation standards under the Occupational Safety and Health Act
- ◆ The Employee Polygraph Protection Act
- ◆ Certain employment standards and worker protections under the Immigration and Nationality Act
- ◆ Government contracts prevailing wage statutes such as the Davis-Bacon and related Acts and the McNamara-O'Hara Service Contract Act

intermediary organizations and institutions that provide services to workers and employers; and,

- Design and implement a nationwide toll-free number and "expert" system to allow the agency to respond more quickly and accurately to millions of information calls and thousands of employee complaints.

In addition, Wage and Hour continued to receive funding to pursue the process begun in 1999 for updating child labor hazardous orders to reflect current technologies, hazards, and other workplace factors.

determining compliance



"WHA is the largest agency within the Department of Labor with over 4,000 employees. Pursuing its mission, 'to enhance the welfare and protect the rights of American workers,' and is inspired by the vision, 'to achieve universally applied fair practices in the American Workplace.'"

*Testimony of Bernard E. Anderson,
Assistant Secretary for Employment Standards,
before the House Education and the Workforce
Subcommittee on Oversight and Investigations
June 27, 2000*

The Government Performance and Results Act (GPRA) calls on agencies to identify their core missions, establish meaningful challenging goals, and develop measures that will give Congress, the public and the agencies themselves a clear indication of the extent to which progress is being made towards the intended program results. GPRA requires agencies to develop strategic plans, structure their goals and measures, and focus their energies on achieving significant improvements in program results. GPRA—which is now an integral part of the budget process—provides the structure and the framework for Wage and Hour's strategic goals.

Consistent with GPRA's intent, Wage and Hour developed a new system of measuring its progress towards its goal of increasing compliance with the laws it enforces. Prior to this new measurement,

there was no other source of accurate, comprehensive information for which to create reliable compliance data.

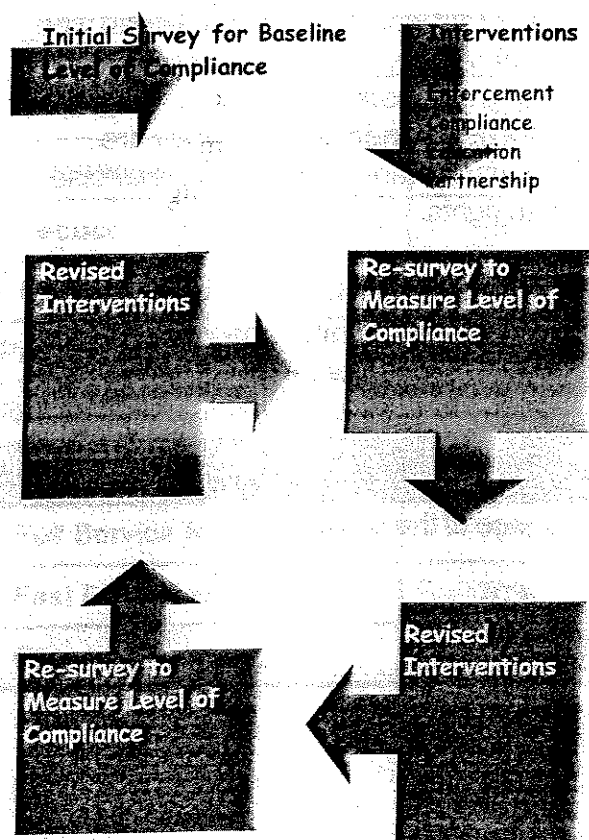
In order to determine a starting point—a compliance baseline—and whether progress is being made towards achieving its goal, Wage and Hour developed statistically valid investigation-based surveys as the means of measurement.

These measurement instruments serve four basic functions:

- They constitute a form of intervention to change compliance behavior because Wage and Hour conducts full investigations in carrying out the surveys;
- They provide Wage and Hour, the public, and the Congress with accurate measures of compliance levels from which changes can be assessed over the long term;
- They inform the agency on industry-wide non-compliance patterns from which strategies for changing behavior can be designed; and,
- They measure how successful the agency was in changing the compliance behavior of prior violators (recidivists). These recidivism measurements help the agency identify and replicate effective forms of interventions, and carefully evaluate unsuccessful intervention techniques.

Initially, a randomly selected representative number of establishments within a targeted industry are scheduled for investigation. From these investigations, a baseline level of compliance is established. Thereafter, interventions—based on Wage and Hour's multi-prong compliance strategy of enforcement, compliance education and partnerships—are designed and implemented in the intervening time period between the surveys. Subsequent compliance surveys—usually on a two- to three-year cycle—determine changes in compliance patterns and may shed some light on how effective intervening strategies have been in changing behavior to achieve compliance in a targeted industry. Such surveys also provide insight for modifying strategies and implementing a course for subsequent years.

Measurement Model



COMPLIANCE

As early as the enactment of the Fair Labor Standards Act (FLSA) in 1939, this Country recognized that responsible public policy decreed a basic guarantee of minimum standards for workers. The FLSA—and those workplace laws that have since followed—benefit and protect millions of workers. And, for that reason, compliance with these laws remains as crucial today as when first enacted. If we could say that each employer provides all its workers with the compensation and workplace standards set forth in the laws enforced by the Wage and Hour Division, then, as an agency, we will have “achieved” compliance. But having focused our attention and resources on those industries with some of the most pervasive compliance problems in this Country, we understand the dimensions of the task that we have set for ourselves—violative employment practices are often long-standing and pervasive, the extrinsic factors affecting compliance are difficult to overcome and the tools and resources for accomplishing the task are limited. It may be unrealistic to believe that we will obtain full and complete compliance, so the goals we have established and the strategies that we have deployed are geared toward achieving “substantial” compliance as defined by the individual characteristics of the targeted industries.

targeting low-wage

While Wage and Hour recognizes that resolving worker complaints and restoring back wages are important core functions of the organization, we found—in establishing five-year strategic objectives—that complaint-based investigations are not effective in securing widespread substantial compliance within an industry as a whole. Only those individual employers investigated by Wage and Hour based on complaints alleging violations would be likely to change their violative behavior and, often they would only change behavior related to particular kinds of violations identified during the course of an investigation. In short, Wage and Hour complaint-based interventions changed some behaviors of an individual employer, but they were not changing the compliance behavior of an entire industry. And, they were not producing long-term sustainable patterns of compliance.

In the early 1990s, beginning with agriculture and garment manufacturing, Wage and Hour began shifting its strategies toward pursuing industry-wide compliance. Garment manufacturing became the first of three low-wage industries targeted nationally. Agriculture and health care comprise the other two. In addition, Wage and Hour has renewed its efforts to examine child labor compliance in industries where the data indicate that the risk of serious injury of young workers is greatest. To date, Wage and Hour has determined baseline levels of compliance in 12 industries or industry sectors, and has conducted subsequent surveys in five.

TARGETING FACTORS

Enforcement data and history that demonstrate high rates of violations or egregious violations, including data that emerges from other agencies like the Department's Occupational Safety and Health Administration, the Immigration and Naturalization Service, and State labor departments.

Workforce demographics that show a high concentration of low-wage workers. These workers are among the country's more vulnerable—many are immigrant workers (legal or illegal) who become easy targets for exploitation. Low-wage workers rarely complain or seek assistance because they are either unaware of or afraid to exercise their rights.

Changes in an industry—growth or decline—frequently impact compliance levels. Labor-intensive industries striving to compete in a changing, often global, marketplace may view labor as a negotiable commodity at the expense of the workers.

Levels of Compliance in Nationally Targeted Industries

Industry/Sector	Baseline Level of Compliance		Current Level of Compliance	
	Percent in Compliance	Year Determined	Percent in Compliance	Year Determined
Garment Manufacturing				
Los Angeles	22%	1994	33%	2000
San Francisco	57%	1995	74%	1999
New York City	35%	1997	35%	1999
Health Care				
Nursing Homes	70%	1997	40%	2000
Residential Care	57%	1999		
Agriculture				
"Salad Bowl" Commodities				
Tomatoes	75%	1996		
Onions	42%	1999		
Cucumbers	49%	1999		
Lettuce	65%	1999		
Garlic	38%	2000		
Poultry Processing	40%	1998	Zero	2000
Reforestation	30%	2000		
Child Labor In Industries Where Risk Of Serious Injury Is Greatest				
Full Service Restaurants	79%	2000		
Fast Food Restaurants	70%	2000		
Grocery Stores	83%	2000		

As importantly, every regional and local Wage and Hour office also targets local low-wage industries and carries out child labor initiatives within its jurisdiction. In 1999 and 2000, Wage and Hour offices conducted statistically valid surveys in a number of locally-targeted industries/industry sectors. All but two of these surveys established baselines. The two surveys—the

Southeast Region's Hotel/Motel initiative, and the Seattle District Office's State of Washington Adult Family Homes initiative—were resurveys of a targeted industry. The level of compliance in the Southeast Region's Hotel/Motel initiative declined. The level of compliance for the State of Washington Adult Family Homes stayed the same.

Compliance Rates in Local Low-Wage Industries

Location	Low-Wage Industry	Compliance Rate	Year
Northeast Region			
NE Region-wide	Temporary Help	79%	1999
Richmond, VA	Automobile Repair	64%	1999
Pittsburgh, PA	Restaurants	50%	1999
Pennsylvania	Day Care	47%	2000
Long Island, NY	Radiology Offices	83%	2000
Caribbean	Security Guards	24%	2000
Southeast Region			
Georgia	Day Care	26%	2000
South Carolina	Day Care	67%	2000
SE Region-wide	Hotel/Motel	56%	2000 ¹
Tennessee	Day Care	46%	2000
Carolinas	Consumer Loan/Mortgage	57%	2000
Gulf Coast, AL	Day Care	33%	2000
South Carolina	Child Labor Recidivism in Myrtle Beach	88%	2000
Jacksonville, FL	Florists	81%	2000
Louisville, KY	County Jails	74%	2000
South Florida	Security Guards	60%	2000
Tampa, FL	Full Service Restaurants	53%	2000

¹ The 1998 survey determined a baseline of 72%.

Compliance Rates in Local Low-Wage Industries

Location	Low-Wage Industry	Compliance Rate	Year
Midwest Region			
Chicago, IL	Restaurants	42%	1999
Indianapolis, IN	Restaurants	47%	1999
Kansas City, MO	Day Care	24%	1999
Minneapolis, MN	Gas Stations	70%	1999
Columbus, OH	Restaurants	72%	2000
Des Moines, IA	Child Labor in Grocery Stores	48%	2000
Minneapolis, MN	Rainbow Foods Stores	5%	2000
Kansas City, MO	Day Care	55%	2000
St. Louis, MO	Nursing Homes	50%	2000
Springfield, IL	Day Care	68%	2000
Southwest Region			
Houston, TX	Roofing	77%	1999
Salt Lake City, UT	Fast Food Restaurants	59%	1999
New Mexico & Texas	Red Chili Peppers	44%	2000
Bexar & Webb Counties, Texas	Restaurants	69%	2000
Western Region			
Reno, NV	Hotels/Motels	62%	1999
Seattle, WA	Adult Family Homes	52%	1999
Los Angeles, CA	Grocery Stores	57%	2000
Los Angeles, CA	Garlic	47%	2000
Phoenix, AZ	Restaurants	77%	2000
Phoenix, AZ	Produce Sheds	69%	2000
Portland, OR	Restaurants	81%	2000
Portland, OR	Pharmacies	98%	2000
Seattle, WA	Adult Family Homes	53%	2000 ²
West Covina, CA	Child Labor	94%	2000
West Covina, CA	Residential Care	35%	2000

2 The 1999 survey determined a baseline of 52%.

strategic approach

Several years ago, like many other agencies, Wage and Hour began experiencing the effects of downsizing, diminishing budgets and increasing responsibilities. As available resources steadily declined in the 1980s and early 1990s, we faced added responsibilities, like the implementation of the Family and Medical Leave Act in 1993. To meet these challenges, we began to think more strategically—to rethink compliance priorities by defining specific outcomes and strategic goals. These early efforts provided the basis for the development and articulation of Wage and Hour's "mission" statement, which defines for the public and the organization the fundamental reason for the agency's existence and our principal operational purpose.

In part, to fulfill its important mission, Wage and Hour established two broad interrelated and mutually-supporting strategic goals that guide our planning, program operation and the allocation of resources over the long term:

Achieve compliance with laws and regulations administered and enforced by Wage and Hour; and,

Improve customer satisfaction with the services that Wage and Hour provides.

These broad strategic goals provide consistency and constancy with the agency's mission at all levels of the organization.

And, in turn, these goals have guided the development of short-term objectives and activities. Wage and Hour established three objectives to achieve labor law compliance—the core of our worker protection program—and three customer satisfaction objectives. They are to:

Achieve Compliance in

Nationally identified low-wage garment manufacturing, agriculture, and health care industries; and, regionally/locally identified low-wage industries (such as restaurants, guard services, janitorial services, temporary help, hotels/motels) including in rural areas and small towns.

Improve employers' knowledge—especially new and small businesses—of Wage and Hour laws and processes in order to promote compliance.

Increase level of employers' compliance following a Wage and Hour intervention to reduce recidivism.

Improve Customer Satisfaction

... among workers seeking our services.

... among employers.

... among others seeking our services, including contracting agencies.

Wage and Hour uses a multi-prong approach of enforcement, compliance education, and partnerships to increase compliance with the labor standards for which it has responsibility.

The enforcement component of our comprehensive approach includes the use of traditional enforcement tools like investigations; the assessment of civil money penalties (fines) for repeat

strategies for increasing compliance

and willful violations; targeted strike forces in low-wage industries; and the FLSA "hot goods" provision. New tools, such as obtaining the "disgorgement" of ill-gotten gains from the sale of "hot-goods" and expanding referrals for criminal prosecution and civil litigation for injunctions are also being used.

Over the last decade, Wage and Hour has increased the proportion of its compliance efforts in "directed" or "targeted" investigations—as opposed to "complaint-based" investigations—from 25 percent to 30 percent. Targeted investigations are used to deter and remedy violations in predominately low-wage industries where violations are more often egregious and complaints less common.

Compliance education includes such activities as seminars for employers and employer associations; town hall meetings for workers; and distribution of a variety of compliance assistance materials, including fact sheets, compliance manuals and palm cards.

ENFORCEMENT

The FLSA contains a "hot goods" provision that prohibits the shipment in interstate commerce of goods produced in violation of the Act. The threat of stopping the shipment of goods made in violation of the minimum wage, overtime or child labor provisions of the FLSA can provide a strong

incentive for employers to comply.

Wage and Hour has expanded its use of the "hot goods" provision to begin using a new enforcement tool—disgorgement. Disgorgement is an equitable remedy used by the government to recover ill-gotten "gains." Shippers of "hot goods" (e.g., agriculture commodities, garments, medical invoices produced in violation of the FLSA) gain monetarily and should not be allowed to profit from the violations that occurred during their production. The resulting "gains" can be disgorged, and under certain circumstances these monies can be used to pay restitution to workers who were underpaid.

Elaws is an interactive internet-based tool which provides easy-to-understand expert advice on basic FLSA requirements and the Family and Medical Leave Act. A separate module covers the Federal child labor requirements. The interactive format tailors answers based on the user's responses to a set of questions. Information can be accessed directly from the Department of Labor's home page at www.dol.gov/elaws.

WORKER EXPLOITATION TASK FORCE

The Worker Exploitation Task Force (WETF) was established in 1998 to help combat cases of egregious worker exploitation and modern day slavery in the United States. Co-chaired by the Solicitor of Labor and the Assistant Attorney General for Civil Rights and including representatives from the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Equal Employment Opportunity Commission and other Federal agencies, the Task Force meets regularly to coordinate ongoing enforcement cases, deliver training and oversee the activities of the 15 Regional WETFs. The purpose of the WETF is to:

- Ensure better coordination between government agencies that look into worker exploitation;
- Create a centralized system to share information and exchange ideas on how to pursue these cases; and,
- Craft an overall strategy to address worker exploitation by establishing a comprehensive enforcement plan.

Recent Wage and Hour related cases include:

➤ In early spring 1999, Abel Cuello, Jr., Basilio Cuello, and Herman Covarrubias of Immokalee, FL, were arrested and charged with involuntary servitude, extortion, harboring illegal aliens, and MSPA violations. Later that September, Abel Cuello was sentenced to 33 months in prison and ordered to pay \$29,445 in restitution. Herman Covarrubias and Basilio Cuello each received prison sentences.

➤ In March 1999, Willie Warren, Sr., of Arcadia, FL—a farm labor contractor (FLC), with a long history of MSPA violations—pled guilty to engaging in farm labor contracting activities without a certificate of registration; failing to comply with safety and health standards for a migrant camp; and failing to obtain, post, and retain a copy of a certification that applicable safety and health standards had been met. Three months later, Warren was sentenced to five years probation, three months of home detention, and 200 hours of community service. During probation, Warren is prohibited from engaging in FLC activities.

Wage and Hour employs various partnerships to leverage its limited resources and broaden the impact of other strategies. The vast majority of Wage and Hour's partnership agreements result from enforcement actions involving specific employers and/or their commercial consumers. However, partnerships also evolve from our work with employer associations and other stakeholders.

Compliance agreements involving multi-establishment employers usually require corporations to take certain proactive steps to assure current and future compliance throughout all corporate (and sometimes franchise) establishments. Partnerships with commercial suppliers and consumers of a violating employer's goods/services also can be effective in promoting compliance on a broader scale. And, the development and maintenance of relationships with non-profit and community-based organizations, States, and other Federal agencies can help Wage and Hour reach low-wage employees, develop strategies for compliance and coordinate enforcement efforts.

PARTNERSHIPS WITH STATES

Creating and maintaining partnerships with State labor agencies is an important part of increasing the effectiveness of our enforcement, educational, and outreach efforts. Wage and Hour employs a number of strategies aimed at advancing the cooperative effort between the Federal government and the States, like conducting a number of joint presentations, meetings, compliance seminars in many States; entering into a number of Memoranda of Understanding and joint resolutions; and participating in cooperative educational outreach programs with leaders in low-wage industries.

garment manufacturing

Garment manufacturing remained a priority in 1999 and 2000. Pervasive compliance problems and fierce competition in the industry contribute to the potential exploitation of some 700,000 U.S. garment workers who are among the country's most vulnerable workers. Garment workers—the vast majority of whom are either legal or illegal immigrants—are chronically underpaid. They are often unaware of their rights, and frequently intimidated by their employers. They rarely complain even though they work long hours, often without overtime pay, and even sometimes for no pay at all if the contractor shop abruptly closes.

The Department's multi-prong "No Sweat" strategy of enforcement, compliance education, and partnership, evolved from an approach of only investigating contractor shops to one where the agency now moves up the chain of production to affect compliance.

Wage and Hour now looks for new ways to engage manufacturers, retailers, and others in the garment industry to increase compliance—to change behavior and practices within the industry.

Compliance Rates in Garment Manufacturing

Los Angeles					
Compliance Comparison 1994 - 2000					
Firms in Compliance		1994	1996	1998	2000
Overall Compliance Rate		22%	39%	39%	33%
Minimum Wage		39%	57%	52%	46%
Overtime		22%	45%	46%	40%
Average back wages per shop		\$7,284	\$3,235	\$3,631	\$4,062
San Francisco					
Compliance Comparison 1995 - 1999					
Firms in Compliance		1995	1997	1999	
Overall Compliance Rate		57%	79%	74%	
Minimum Wage		84%	100%	92%	
Overtime		57%	79%	75%	
Average back wages per shop		\$1,207	\$930	\$446	
New York City					
Compliance Comparison 1997 vs. 1999					
Firms in Compliance		1997		1999	
Overall Compliance Rate		37%		35%	
Minimum Wage		80%		69%	
Overtime		46%		39%	
Average back wages per shop		\$6,989		\$12,099	

Baseline levels of compliance have been established in the three U.S. garment centers. The first was in Los Angeles in 1994, followed by San Francisco in 1995 and New York City in 1997. In 1999 and 2000, Wage and Hour conducted resurveys to determine the current levels of compliance. In all three garment centers—surveys were conducted in San Francisco and New York City in 1999 and in Los Angeles in 2000—the levels of compliance were virtually unchanged (statistically) from the previous surveys.

While disappointing, the results are not surprising in consideration of the internal and external pressures in the industry. The domestic garment manufacturing industry, which has been in decline in recent years, faces fierce competition from off-shore manufacturers who, in this global economy, often view labor as a negotiable commodity. Pricing and the consolidation of retailers at the top of the apparel chain are also important factors influencing compliance. The results of the recent surveys will require the agency to re-examine and enrich intervention strategies and dig deeper into the factors that influence compliance behavior.

To this end, in addition to measuring the levels of compliance, the surveys provide other information which is helpful for developing intervention strategies. For example:

➤ In all three garment centers, we learned that monitoring promotes compliance in contractor shops—and that there is a correlation between more thorough monitoring (all seven monitoring components) and increased levels of compliance. The 2000 survey in Los Angeles, for example, found that the overall level of compliance in shops

subject to the most thorough monitoring (44%) was four times the rate for non-monitored shops (11%).

➤ Both the New York and Los Angeles surveys found the levels of compliance lower among those firms paying outside the regular payrolls (*e.g.*, unreported cash pay, non-payroll checks).

➤ The 1999 survey in San Francisco, like the Los Angeles and New York surveys, found lower levels of compliance among new and small businesses. In San Francisco, only 64 percent of firms in business less than two years were in compliance compared to 81 percent of firms in business for three or more years.

➤ In the Los Angeles 2000 survey, we also gathered information that suggests that contractors' ability to bid for work and renegotiate the prices with manufacturers when circumstances change improve contractor compliance.

Because of what we learned in our surveys, we will—in the future—continue to encourage manufacturers to monitor their contractor shops for compliance—stressing the importance of thorough monitoring. Recognizing that contractor shops are not complying, we are:

➤ Using the successful criminal prosecution of garment operators in New York as a model for Los Angeles;

➤ Working more aggressively with new and small businesses to ensure that they understand the law and the consequences for violating;

➤ Discussing the impact of pricing and encouraging manufacturers to consider negotiating prices with retailers and contractors that ensure the ability to pay minimum wage and overtime;

➤ Conducting more "top down" investigations of retailers to engage them in our efforts to solve the rampant noncompliance in the garment industry.

Monitoring

The Seven Monitoring Components

Review of Payroll Records

Review of Time Cards

Interviews of Employees

Providing Compliance Information

Advising of Compliance Problems

Recommending Corrective Action

Making Unannounced Visits

Los Angeles

Monitored vs. Nonmonitored 2000			
	Nonmonitored	Monitored ¹	Effectively Monitored ²
Overall	11%	27%	44%
Minimum Wage	11%	55%	61%
Overtime	21%	36%	44%
Average back wages per shop	\$3,924	\$4,502	\$2,819

San Francisco

Monitored vs. Nonmonitored 1999			
	Nonmonitored	Monitored ¹	Effectively Monitored ²
Overall	57%	76%	90%
Minimum Wage	71%	94%	95%
Overtime	57%	78%	95%
Average back wages per shop	\$1,841	\$324	\$187

New York City

Monitored vs. Nonmonitored 1999			
	Nonmonitored	Monitored ¹	Effectively Monitored ³
Overall	33%	38%	46%
Minimum Wage	63%	74%	79%
Overtime	39%	38%	46%
Average back wages per shop	\$10,635	\$13,664	\$10,446

1. Based on contractor shops in which at least one of the following seven monitoring components occurred.

2. Contractor shops in which six or seven of the monitoring components occurred.

3. Contractor shops in which four or more of the seven monitoring components occurred.

Because of the prodigious compliance challenges and stagnant compliance rates, Wage and Hour continued to invest significant resources—including the opening of a new office in Brooklyn in 2000 (a new office was opened in East Los Angeles in 1997)—and developing and carrying out enhanced enforcement strategies to increase compliance.

Enforcement

Wage and Hour broadened enforcement at all levels of the garment industry.

Beginning in 1999, Wage and Hour instituted a “rapid response team” to quickly investigate *employee complaints*—especially those involving missed payrolls and egregious violations.

Wage and Hour also revised procedures for *contractor* investigations to increase the period of investigation from 90 days to two years for serious contractor violations; to consistently assess fines for repeat and willful violations of the FLSA; and develop more cases for civil and criminal prosecution.

Similarly, Wage and Hour stepped up enforcement action against *manufacturers*. Wage and Hour followed-up on manufacturers’ compliance with the Department’s Compliance Monitoring Agreement and instituted action against manufacturers when they were found not in compliance. For example, a consent judgement incorporating the commitments in the Compliance Monitoring Agreement was obtained against a Dallas manufacturer, Howard B. Wolfe, Inc., after investigations of its contractors repeatedly disclosed violations.

ENFORCEMENT

Emeraldtex, a South El Monte, CA, garment contractor paid \$247,000 in back wages to cover a two-year period of time during which 138 workers were underpaid. The contractor was also fined \$20,000 for knowingly violating the FLSA’s minimum wage and overtime provisions and was required by a consent judgment to comply with the law in the future.

In 1999, MGM/Diorva, a garment factory in Saipan, was assessed \$336,000 in civil money penalties for repeat and willful violations of the FLSA. In addition, the Department pursued criminal contempt action which was ultimately adjudicated by a fine of \$100,000 and five-years probation.

September 2000 marked the successful completion of criminal prosecution against three garment operators in New York City’s Chinatown garment district. The investigations were initiated under the auspices of the Worker Exploitation Task Force with the assistance of the Department’s Office of Inspector General. All three garment operators pled guilty to making false statements about pay and recordkeeping practices to government investigators. The operators were ordered to make restitution of back wages and pay criminal fines. The sentencing of a fourth indicted operator is pending.

In addition, a new enforcement tool was unveiled in 1999. Fashion Headquarters, Inc., a garment manufacturer in New York City, was required by court order to give up (disgorge) financial gains made from shipping products that were made by its contractors, MSL Sportswear, Inc. and Laura & Sarah Sportswear, Inc. whose workers were found due some \$200,000 in back wages with some portion attributable to this manufacturer’s goods. This case marked the first time that the disgorgement remedy was used against a manufacturer to obtain partial back wage restitution.

Wage and Hour also initiated the first-ever investigation of a *retailer's* compliance with the "hot goods" provision of the FLSA by investigating producers of the retailer's private label goods. Mervyn's, a subsidiary of the Dayton Hudson Corporation and one of the Nation's major retailers, was selected.

In addition to the above, Wage and Hour continued to conduct targeted strike forces and issue Quarterly Garment Enforcement Reports.

Compliance Education

Wage and Hour also targets education and outreach to all parts of the industry.

Consumers—Wage and Hour continued to support the work of the Newark Archdiocese garment initiative on procurement of uniforms for students in its schools. This initiative is now serving as a model for other locations like Chicago which worked with Wage and Hour to establish its curriculum.

In October 1999, the Department and the Smithsonian Institution's National Museum of American History hosted "No Sweat University: Labor Standards and Codes of Conduct"—a first-of-a-kind forum to provide college and university officials, students and representatives from licensing companies and licensees a unique opportunity to explore strategies for developing and implementing "codes of conduct" to prevent labor abuses of workers making college and university apparel, both in the U.S. and abroad.

Garment Workers—In cooperation with community organizations, unions, and worker advocacy groups, Wage and Hour conducted worker forums in New York City and Los Angeles to educate garment workers about their rights and to encourage them to come forward with complaints when their rights are violated. We also reached out to schools and community organizations with "English as a Second Language" courses to help make workers aware of their rights and available recourses. And, using the media to reach workers, Wage and Hour developed a public service announcement about worker rights and participated on several ethnic radio programs in California.

Contractors—Wage and Hour conducted numerous seminars especially tailored to the needs of new garment contractors, with special emphasis on pricing their contracts with manufacturers to ensure labor law and record keeping compliance. Staff in New York and California distributed the "Apparel Contractor Guide to Compliance," which is now available in multiple languages.

The New York Office initiated a new "office audit" intervention strategy in 2000, which resulted in an audit of 51 new garment shops. These audits then lead to remedial work with 21 (41%) of the shops to help ensure compliance.

Manufacturers—Wage and Hour continued to conduct compliance monitoring workshops to emphasize the importance of effective monitoring. And, agency staff met one-on-one with manufacturers to provide even more specific guidance. Wage and Hour also conducted seminars for manufacturers with a history of contracting with chronic violators of labor laws, and staff in New

Jersey participated with the State to host the first-ever conference for local manufacturers in 1999.

Retailers—Wage and Hour continued to reach out to retailers to explain our expectations and offer training for their buyers and compliance staff. Wage and Hour conducted training for The Limited, The Bon Ton Stores and Kmart; and met with Talbots, Kohl's and Neiman Marcus to discuss the "No Sweat" program.

Partnerships

Wage and Hour maintained and sought new partnerships.

Wage and Hour enhanced partnerships with the States of California, New Jersey and New York, particularly in the area of contractor registration and joint liability legislation which passed in New York and California. In October 1999, Secretary Herman sent a letter of support to the New York State Labor-Religion Coalition when it announced its new campaign "Sweat-Free Schools in NYS by 2001." In 1999, staff in New York and New Jersey participated in joint training with their State colleagues followed by a joint enforcement initiative to determine the status of contractors' State registration requirements. Staff participated in the State of California's first apparel forum, "A Focus For the Future: California's Apparel Industry Forum."

Wage and Hour initiated a close working relationship with the U.S. Attorney's Office in the Southern District of New York, as encouraged by the Worker Exploitation Task Force, to develop,

coordinate and prosecute instances of exploitation in the garment industry.

Next Steps for Fiscal Year 2001

Given the low levels of compliance in the garment industry, Wage and Hour is increasing the consequences for non-compliance by both garment contractors and manufacturers by seeking administrative actions against chronic violators, stepping up civil litigation, referring more cases for criminal prosecution, and pursuing more enforcement actions against retailers. In addition, Wage and Hour is conducting follow-up compliance surveys in San Francisco and New York City.

In 1998, over 2 million people in the United States received care in nearly 60,000 licensed long-term care facilities—over 18,000 were nursing homes and the rest were other types of residential care facilities. Nurses aides—who represent the largest percentage (37%) of workers in nursing

health care

industry are among the lowest paid and least trained care givers in these facilities. Their median average wage of \$8.00 an hour yields an annual salary of just over \$6,600 a year—just below the 1999 poverty threshold of \$6,700 for a family of four. Nearly 90 percent are women. Over a third are African-American, and close to 10 percent are Hispanic.

Compliance Rates in Health Care

Wage and Hour began its national focus on the long-term health care industry in 1997 with a compliance baseline survey of nursing homes. That first measurement found that 70 percent of nursing homes were in compliance with the FLSA minimum wage, overtime and child labor provisions. We followed in 1998 with a compliance survey of residential care (group home) facilities, which established a 57 percent baseline of compliance in that segment of the long-term care industry. In 1999, the agency

homes and 10 percent of workers in the residential care

focused on improving compliance through compliance education, partnerships and enforcement initiatives in both the nursing home and residential care segments of the industry. In 2000, Wage and Hour re-surveyed the nursing home industry. The result—a decrease to a 40 percent level of compliance—was disappointing.

Of the 136 facilities investigated in the 2000 survey, 81 had violations of the minimum wage, overtime or child labor provisions. Most (68) had overtime violations. And, nine facilities had minimum wage violations. One hundred and eight (108) minors were illegally employed in 20 of the 136 facilities investigated. The survey cases found a total of \$432,458.43 in back wages due to 1,567 employees.

Compliance Rates in the Long-Term Care Industry			
Nursing Homes			
	1997		2000 ¹
Overall Compliance	70%		40%
Minimum Wage	96%		93%
Overtime	76%		50%
Child Labor	94%		85%
1 Survey parameters have not been adjusted to allow for direct comparison to 1997 survey.			
Residential Care (Group Homes)			
		1998	
Overall Compliance		57%	
Minimum Wage		85%	
Overtime		61%	
Child Labor		99%	

Overtime violations resulting from misapplied administrative/executive/professional exemptions were identified in most of these cases—followed by regular rate issues (failure to include bonuses and shift differentials in computing overtime) and uncompensated hours of work (meal periods when work had to be performed and preliminary/postliminary time). Minimum wage violations were most often the result of illegal deductions for uniforms.

A concurrent compliance survey of a sample of 58 nursing homes which were prior violators yielded a recidivism compliance rate of 41 percent—significantly lower than the recidivism rate of 75 percent measured in 1997.

While some comparisons are appropriate between the 1997 and 2000 surveys, the survey parameters and reporting criteria were somewhat different. For example, the 1997 baseline of nursing homes was limited to only six low-wage occupational categories while the 2000 survey included all occupations. If the results are normalized for comparison purposes, the compliance rate for the 2000 survey would be 55 percent and 1997 baseline would have been reported as 67 percent.

Enforcement

Wage and Hour maintained its enforcement program in both targeted sectors of the long-term health care industry with 11 local offices pursuing investigation-based local initiatives in 1999 and 21 local offices undertaking initiatives in 2000. For the past two years, Wage and Hour has been seeking litigation and assessing civil money penalties, as appropriate.

In 1999 and 2000, Wage and Hour completed nearly 2,900 investigations in the long-term health care industry, and found over \$14.5 million due some 14,600 employees in back wages.

ENFORCEMENT

An investigation-based compliance survey of 24 randomly-selected health care providers on Oahu, Hawaii, yielded an FLSA compliance level of 42 percent. Back wages of just over \$88,000 were collected for nearly 250 employees.

A Northern Indiana initiative involving 22 county nursing homes found that half underpaid their employees. Sixty employees were paid \$62,000 as a result.

A strike force involving 30 nursing homes in the Philadelphia area also found that half were in violation. Child labor violations were found in 6—or 20 percent—of the establishments with 25 minors found employed in violation. Child labor civil money penalties of \$13,725 were assessed. FLSA minimum wage/overtime civil money penalties of \$15,000 were assessed against repeat or willful violators.

In January 1999, the U.S. District Court for Connecticut ordered American Health Foundation, Inc. (an Ohio company) and its wholly owned Connecticut subsidiary, AHF/Connecticut Management, Inc., to pay 202 employees a total of \$69,000 in overtime back wages. The workers, all care providers, were employed in the company's nursing homes in Hartford, Bloomfield and East Winsor, Connecticut.

In Massachusetts, Amherst Nursing Home, Inc., was ordered by the U.S. District Court to pay \$50,000 to 47 employees who were not paid proper overtime.

(cont'd)

In Michigan, the Department filed legal action against Medi-Tech Associates, Inc., and Med-Temps, Inc., to recover back wages and an equal amount in liquidated damages for employees who were denied overtime compensation. The two firms provide temporary health care workers to Detroit-area hospitals and nursing homes. Civil money penalties of \$46,250 were also assessed.

In March 1999, the U.S. District Court for Tennessee issued an order restraining Hospital Staffing Services, Inc. (HHS), a Memphis-based hospital, from shipping clinical reports and time sheets under the FLSA's "hot goods" provision. The records were completed by home health nurses and therapists who were not properly paid.

An enforcement initiative in Carson and Torrance, California, found 11 of 17 facilities investigated in compliance with the FLSA (65%). In January 2000, the operator of three retirement homes in Torrance, California, signed a consent judgement ordering the payment of \$52,147 in back wages to employees who did not receive the minimum wage or the proper overtime.

Education

While compliance education and outreach constitutes a key element of our overall strategy for affecting compliance in the health care industry, the 2000 nursing home survey results suggest that compliance education can play only a limited role in affecting compliance behavior and must be balanced with effective partnerships and vigorous targeted enforcement.

During 1999, Wage and Hour offices throughout the country participated in various forms of compliance assistance as we reached out to indus-

try associations, employee representatives and other stakeholders. We participated in over 20 seminars and workshops, gave over 32 presentations and conducted multiple mailings, which we believe reached over 13,500 employers and potentially impacted nearly 73,000 workers. Compliance education efforts continued in 2000 with over 30 seminars and workshops and 25 presentations to the industry. These activities combined with mailings reached some 15,000 employers.

For example, the Phoenix District Office mailed the agency's Residential Care Fact Sheet to all of the 636 owners of residential care facilities in the State of Arizona. Other district offices followed a similar strategy by mailing compliance material to health care providers in their respective States.

In May 2000, the Salt Lake City District Office launched a major educational effort in Western Colorado and Wyoming that garnered media attention.

Others, like the Boston, Hartford, Seattle, Minneapolis and Denver District Offices, hosted seminars and workshops for representatives of the health care industry. The New York City office reached out to workers through an Hispanic community service organization, Centro Hispano, many of whose members work in the health care industry.

In November 1999, Wage and Hour published an FLSA compliance guide for the long-term care industry which highlighted compliance problems identified in the 1997 and 1998 surveys. Over 3,000 copies of the guide, *Monitoring Fair Labor Standards Act Compliance in the Long-Term Care*

Industry, were distributed and well-received by the industry. And, demand for additional copies has remained high.

Partnerships

Over the past two years, Wage and Hour developed new partnerships with State agencies and employers aimed at promoting compliance in the long-term health care industry.

Wage and Hour staff entered into an education and outreach partnership with the State of California's Community Care Licensing Agency, which agreed to mail compliance assistance material to all licensed residential care facilities providing care to the developmentally disabled community and many of those providing care to the elderly.

In partnership with the State of Texas Department of Health, Wage and Hour staff trained Department of Health investigators in Wage and Hour requirements to ensure timely and appropriate referrals of potential Wage and Hour violations.

In late 1999, Wage and Hour entered into an agreement with the State of New York's Office of Mental Retardation and Developmental Disabilities to promote statewide compliance in its group homes.

Next Steps for Fiscal Year 2001

Because of the low level of compliance found in the 2000 nursing home survey, Wage and Hour will be modifying its strategies for affecting compliance in this industry by shifting from a strategy

Corporate Compliance Baseline for Genesis

After a number of investigations disclosed continuing violations Wage and Hour entered into a two-year compliance partnership with Genesis Health Ventures, Inc., a major corporation in the long-term care sector, in which the company—to assure future compliance in its 450 corporate-owned or managed facilities—agreed to train its employees on Wage and Hour requirements; review and revise, if necessary, its employee handbook on exempt personnel; and conduct and report on a self-audit of 20 percent of its elder care centers. Wage and Hour, in turn, agreed to provide training material and assistance, and make recommendations on the employee handbook.

In 1999, Wage and Hour established a baseline measure of corporate compliance by investigating a random sample of 50 Genesis nursing homes. That compliance survey found a 6 percent level of compliance. Overtime violations were most common, resulting from the company's failure to include shift differentials or bonuses in the regular rate of pay when calculating overtime. Other overtime violations occurred when employees were not compensated for missed or interrupted meal breaks and were misclassified under the FLSA's administrative, executive or professional exemptions.

The company is continuing to work closely with Wage and Hour staff to correct potential violations and leads the industry in re-classifying workers who are commonly misclassified as FLSA exempt.

In April 2000, Wage and Hour conducted 40 additional random investigations of Genesis facilities to measure whether compliance increased during the intervening period. The second compliance survey found 40 percent of Genesis establishment in compliance with the FLSA. The average number of employees due back wages per investigation dropped from 27 in 1999 to eight in 2000 and the average back wages per investigation dropped from just over \$13,500 to nearly \$4,000. Although compliance is increasing at a fairly rapid rate (and the magnitude of violations are declining), compliance rates remain too low. In fiscal year 2001, Genesis will continue with its employee training commitment and will conduct self-audits of nearly 20 percent of their facilities.

that was primarily education-based to one that increases targeted enforcement activity. Compliance assistance remains an important component. But, beginning in fiscal year 2001, Wage and Hour will target some 500 plus nursing homes nationwide that either have a history of prior violations, are owned by a nursing home chain with a history of corporate-wide non-compliance, and/or have been identified by the Health Care Finance Administration as having staffing deficiencies. In addition, Wage and Hour will seek opportunities to increase the assessment of civil money penalties and will pursue litigation where appropriate to increase the costs of non-compliance for recalcitrant companies.

Farm workers are among the poorest and most vulnerable in the U.S. workforce. A large portion of the nearly 2 million people who work for wages on U.S. farms face labor market conditions that operate to keep them and their families in chronic poverty. They continue to experience stagnating or declining wages, annual family incomes that average well below the "poverty line," and chronic unemployment and underemployment, averaging less than 25 weeks of agricultural employment per year. The average hourly wage rate of farmworkers in 1998 was \$6.18, and their annual median family income was between \$7,500 and \$10,000. In 1997-1998, 60 percent of all farmworkers had below poverty-level incomes. They often rely on labor intermediaries—farm labor contractors—to link them with employment opportunities and to provide employment-related transportation and housing. They often suffer some of the worst forms of mistreatment from their employers—transported in unsafe vehicles, housed under unsafe and unhealthy conditions, and not paid or paid in an untimely manner.

In 1994, Wage and Hour launched its "Salad Bowl" initiative to improve compliance with the FLSA and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) in five commodities—lettuce, tomatoes, cucumbers, onions and garlic. These commodities are labor intensive, usually hand-harvested crops that are commonly characterized by the use of migrant crews and farm labor contractors, substantial employer-provided transportation and housing, and a history of labor violations. Wage and Hour's compliance efforts are focusing on the critical MSPA protections—disclosure, wages, housing and transportation

(DWHaT)—that most directly impact farmworkers' lives.

Wage and Hour is also focusing on other agricultural-related industries, like reforestation and poultry processing, where labor standards violations are prevalent. The agency's enforcement, education, and partnership strategies in agriculture are designed to address prodigious compliance challenges in this sector.

agriculture

Compliance Rates in Agriculture

Comparative Compliance Rates in Salad Bowl Crops	
Crop	Overall Compliance Rate
Lettuce	65%
Cucumbers	49%
Onions	42%
Garlic	38%
Tomatoes	75%

"Salad Bowl" Commodities

Compliance baselines for all five "salad bowl" commodities were first available in 2000. In 1999, Wage and Hour conducted compliance surveys in lettuce, cucumbers and onions; in 2000, the agency conducted a survey of garlic producers. (The baseline for tomato productions was established in 1996.)

The lettuce survey included 51 producers, mostly in California where 68 percent of lettuce in the U.S. is grown. Of the 18 producers found in violation of MSPA, nine were in violation of multiple MSPA provisions. None of the producers were in violation of minimum wage or child labor provisions. Forty-three percent of 37 prior violators also surveyed were in compliance.

The cucumber survey included 53 producers. Two-thirds (18 of 27) of employers in violation committed multiple violations of MSPA. Four growers had FLSA minimum wage violations and one grower had child labor violations. Forty-six of the growers and farm labor contractors were prior violators. Thirty-seven percent of those were in compliance.

Forty-five onion growers were investigated in the onion survey. Twenty of the 26 growers found in non-compliance were in violation of more than one MSPA provision. Six establishments violated the FLSA minimum wage provisions and two growers were found in violation of the child labor requirements. Forty-two percent of the 36 prior violators also surveyed were found in compliance.

Wage and Hour investigated the garlic harvest at 32 covered locations. Of those 32 sites, 12 (38%) were in compliance. Eighteen of the 20 in violation violated more than one of the DWHaT provisions. Six establishments were found in violation of the FLSA's minimum wage provision. No establishments were found with child labor violations.

Poultry Processing

In 2000, Wage and Hour conducted a resurvey of compliance in the poultry processing industry. The industry was targeted by Wage and Hour because it has a history of violations and has been growing rapidly both in respect to production and employment. It is estimated that the workforce has doubled in the last 20 years. There are now more than 250,000 workers—largely immigrant and vulnerable to exploitation. They rarely complain about their wages and working conditions. The industry commonly experiences high turnover rates—from 100 percent in a plant as a whole to as high as 300 percent on the processing line. Historically, Wage and Hour found serious noncompliance, which was verified by the baseline survey in 1997 which found only 40 percent of the plants investigated in compliance. In 1997, most of the violations involved failure to pay proper overtime and to keep accurate records for all hours worked. For example, workers employed as chicken catchers were not paid for the time spent traveling from one farm to the next. In-plant workers were not being compensated for pre- and postliminary work-related tasks.

The 2000 survey found none of the 51 plants investigated in full compliance with the requirements of FLSA and MSPA. Violations found included failure to pay proper overtime pay by not counting and paying for all hours worked, making impermissible deductions from workers' pay, and not including bonuses in the employees' regular rate for overtime calculations. In addition, the investigations again found failure to keep complete and accurate records of hours worked, improperly claimed overtime exemptions and—in a few

plants—failure to comply with child labor requirements. In 2000, the investigations found some non-compliance with the FMLA.

The survey did find, however, more chicken catchers paid in compliance with overtime requirements, which is largely attributable to Wage and Hour's aggressive compliance position about the applicability of the overtime provisions of the FLSA.

Reforestation

In 2000, Wage and Hour conducted a baseline survey of the reforestation industry—particularly tree planting and thinning activities. This low-wage industry—like many others—is becoming increasingly reliant on immigrant workers who are less likely to recognize or tell others of illegal labor practices.

The survey of 60 landowners and reforestation contractors found that only 30 percent (18 of 60) were in compliance with the requirements of the FLSA and MSPA. MSPA violations included the failure to disclose working conditions, failure to pay wages owed when due and housing safety violations. Minimum wage and overtime violations were prevalent; however, there were no child labor violations found. Back wages of over \$326,000 were found due 476 workers. And, MSPA civil money penalties of \$260,00 were assessed.

Enforcement

Wage and Hour conducted a number of agricultural enforcement initiatives around the country, with each examining compliance with FLSA child labor,

Chicken Catchers

Wage and Hour's 1997 survey of the poultry industry found fewer than 40 percent of poultry processing slaughter plants in compliance with the FLSA. Nearly all of the plants in violation were not paying overtime to their chicken catching crews for the hours that they worked over 40 in a week. They were not paid for the time spent traveling from one farm to the next. And, for many, there was no documentation of the number of hours actually worked. As a general matter, the poultry industry did not even acknowledge that chicken catchers were subject to the FLSA overtime requirements despite a 1996 Supreme Court case on point.

Following the survey, Wage and Hour reached out to the industry, providing extensive compliance education about the application of the FLSA to chicken catchers. A number of the processing plants paid back wages and agreed to comply in the future. Others resisted. And, in June 1999, the Department filed suit against four plants to collect back wages and secure future compliance. Two of these cases have been successfully resolved. Continental Grain Co., doing business as Wayne Farms in Union Springs, Alabama, agreed to pay 37 chicken catchers \$148,106 in back wages, and Perdue Farms in Lewiston, North Carolina, paid \$300,000 to 177 workers on chicken catching crews. The other two cases—Tyson Foods, Inc. of Center, Texas, and Sanderson Farms, Inc. of Laurel, Mississippi—are pending.

The 2000 survey found that the rate of FLSA compliance for chicken catching crews improved from 40 percent to 56 percent. And, even for those plants in non-compliance, only the crew driver or loader tended to be subject to violations as opposed to the entire crew. While the overall rate of compliance in the industry is poor, Wage and Hour has seen some change in behavior with respect to this occupational group—a steady shift toward compliance. While Wage and Hour will continue to be vigilant in ensuring that the industry continues its progress towards full compliance for the workers in the chicken catching crews, the agency can now concentrate more heavily on other violative practices like the industry's failure to pay for preliminary and postliminary hours worked and the practice of making illegal deductions from workers' wages.

minimum wage, and overtime provisions, MSPA's DWHaT protections—disclosure, wages, housing and transportation—and, where appropriate, H-2A program requirements.

Agricultural Enforcement Statistics		
	1999	2000 ¹
Number of Compliance Actions in Agriculture	4,000	2,431
Amount of Back Wages Recovered	\$2,000,000	\$1,333,180
Number of Employees Paid Back Wages	4,000	5,144
Number of MSPA Compliance Actions	2,299	1,620
Number of MSPA Compliance Actions Finding Violations	1,198	869
Amount of MSPA CMPs	\$1,176,476	\$ 748,393
¹ The 2000 decline in the number of compliance actions in agriculture may be an artifact of a change in the agency's data recording and reporting protocols. The changes in the other measures may also be so affected, but are a cause for serious concern.		

Education

Wage and Hour's local compliance education efforts sought to make agricultural workers aware of their rights and employers aware of their obligations under the law.

Prior to targeted enforcement initiatives, we typically conducted outreach with growers, worker advocates, and employees to explain the requirements of the FLSA, MSPA, and our multi-prong compliance strategy. In both 1999 and 2000, we carried out our national annual *Fair Harvest/Safe Harvest* campaign to increase awareness of labor standards protections for farm workers with a special emphasis on young workers and children

ENFORCEMENT

The John H. Harrod and Sons Farms in Hermitage, AR, paid \$152,671 in back wages to 119 workers who were harvesting cucumbers, chili peppers, and tomatoes. When the employer was notified of the alleged back wages due and the "hot goods" provision, he nevertheless continued to ship the produce. Wage and Hour then contacted the recipients of the hot goods and informed them that the produce would continue to remain "hot" until Harrod paid the wages in full to resolve the case. The investigation found that at least 40 of the employees were due wages for as many as eight weeks, and revealed housing violations including fire hazards, maggot-infested refrigerators, and raw sewage outside the barracks. A civil money penalty of \$29,350 was assessed.

Fines, penalties, and back wages totaling more than \$60,000 were collected from growers and farm labor contractors in Arizona, New Mexico, and western Texas. The two-week initiative, which began in October 1998, found four children in Cochise County, Arizona, working in violation of child labor laws. The children, ages 14 and 15, were picking red chilies during hours when they should have been in school. In addition, every grower and labor contractor investigated in Cochise was cited for violations of MSPA. Many of the violations involved employers failing to provide safe transportation, not carrying adequate insurance as required when transporting workers, minimum wage violations, and housing workers in unsafe and unsanitary conditions.

Compliance by blueberry growers in western Michigan increased in 2000 as a result of Wage and Hour's enforcement and compliance education efforts. In 1999, 37 growers were not in full compliance with applicable laws, including child labor. Tragically that year, a nine-year-old boy picking blueberries was killed when he was accidentally run over by a truck. However, in 2000, Wage and Hour found no child labor violations, and of the 41 growers investigated, only 13 were found in violation.

who may be exposed to hazards on and around farm equipment.

Partnerships

As with other compliance initiatives, partnerships can help Wage and Hour leverage limited resources and promote compliance on a broader scale.

Compliance agreements need to be pursued as an integral part of the collaboration between Wage and Hour and food producers.

Next Steps for Fiscal Year 2001

The level of compliance in the "Salad Bowl," poultry processing and reforestation industries is low. In fiscal year 2001, Wage and Hour will be taking steps to increase compliance with the FLSA and MSPA, particularly DWHaT provisions—those provisions which most directly impact workers' wages, safety and health.

Salad Bowl: Nationwide investigation-based compliance surveys will be conducted in the lettuce, onion and tomato commodities. Locally, investigations of employers previously found in violation will be conducted in these crops, as well as in cucumbers and garlic.

Poultry Processing: Wage and Hour will continue discussions with major poultry processors to achieve changes in employment practices to bring about compliance. Assessment of civil money penalties and litigation will be used, as appropriate.

Reforestation: As in the "Salad Bowl" commodities, investigations of employers previously found

in violation will be conducted to deter non-compliance. Civil money penalty assessments and litigation will be used as appropriate.

DWHaT

Wage and Hour measures compliance with the MSPA provisions that most directly impact farmworkers' lives, the so-called DWHaT protections—disclosure, wages, housing safety, and transportation safety. Violations of these protections often result in false or misleading information about the prospective job, underpayment of wages, exposure to unsafe and unsanitary housing for the farmworker and family, and risk of serious injury or death in transportation accidents.

Each MSPA-covered migrant farmworker is entitled to know, before they depart on their migration, the terms and conditions of employment that await him/her at the job site. This information allows the worker to make a reasoned decision about accepting employment before they leave home or begin the job. If the disclosure is not given—or if it contains false or misleading information—then the farmworker is left without essential information about wages; length of employment; housing and transportation costs, if provided; workers' compensation insurance, and other terms and conditions of employment.

MSPA requires that all wages be paid and be paid when due. And, the statute requires that those who provide migrant housing—whether an employer, a farm labor contractor, or a person who runs a migrant labor camp—meet certain minimum safety and sanitary standards. Migrant workers are to be assured a level of health and safety that provides minimally decent housing for them and their families. Similarly, to the extent the employer or farm labor contractor is providing transportation, they must meet minimum safety, insurance and drivers licensure requirements to assure that workers are transported in safe, adequately insured vehicles operated by properly licensed drivers.



All of us want the very best for our children. We want our children to have all the knowledge, skills and tools they will need to meet the challenges they will face in being successful, contributing members of our global society in the 21st century. Our young people can benefit from early work experiences—they learn responsibility, punctuality, how to work productively with others, and many other important skills that can last a lifetime. While we want our young people to have opportunities for instructive and constructive early work experiences, at the same time, these experiences must enhance, not compete with, their education. And, above all, we want our children's work experiences to be safe. But, even today, more than 200,000 young people are injured on-the-job each year. And tragically, nearly 70 are killed at work. You know and I know, that is simply an unacceptable price to pay for the benefits of work experience, and we must—and can—do better. There are many types of injuries, but they all have one thing in common. They are all preventable. That is why I have established a priority on child labor for the Department.”

*Alexis M. Herman
Secretary of Labor*

In 1999, Secretary Herman launched *Safe Work/Safe Kids* – a comprehensive strategy of: enhanced enforcement; compliance education; building partnerships with other governmental, non-governmental, and business organizations; and, increasing

child labor

public awareness of the compliance challenges we face and the real, practical things we can do to meet and overcome these significant challenges.

Consistent with this initiative, for the first time in 2000, Wage and Hour undertook child labor compliance surveys of the restaurant and grocery industries, which typically employ large numbers of teens. Nearly 30 percent of young workers are employed in restaurants and nearly 10 percent in grocery stores. Young workers in these industries experience a relatively high incidence of occupational injuries and illnesses—more than 45 percent of nonfatal occupational injuries and illnesses (that require a day away from work) to workers under the age of 18 occur in restaurants and grocery stores.

The child labor compliance survey determined compliance baselines with child labor laws of 82 percent for groceries, 79 percent for full service restaurants, and 70 percent for fast food restaurants. The majority of the violations involved Child Labor Reg. 3 hours standards. Other violations included the prohibited use of power-driven paper product machines and hoisting apparatus in supermarkets; the prohibited use of meat processing/slicing machines and power-driven bakery machines in full service restaurants; and failure to

comply with Child Labor Reg. 3 occupation standards (regarding 14- and 15-year-olds hired as cooks and cashiers) in fast food restaurants.

Enhanced Enforcement

In addition to the surveys, Wage and Hour continued to pursue an enhanced child labor enforcement program.

Complaints alleging child labor violations are rare. Therefore, Wage and Hour examines child labor compliance in all investigations conducted at employers' establishments in addition to its directed enforcement program. Consistent with Wage and Hour's overall goal of increasing compliance in targeted low-wage industries, investigations are also concentrated in those low-wage industries where young workers are most often employed and injuries are common: agriculture, grocery stores, and restaurants.

In support of *Safe Work/Safe Kids*, in 1999, Wage and Hour conducted 50 regional and local child labor initiatives targeted at increasing compliance in industries such as restaurants, retail establishments, grocery stores and amusement parks. These 50 initiatives included a total of 1,780 investigations—of which 1,311 or 74 percent found compliance. We found 2,193 minors illegally employed with 2,001 violations of the Reg. 3 hours and occupations standards and 356 violations of the hazardous occupations orders. Civil money penalties of \$1,749,322 were assessed against 314 employers for illegally employing minors. Of the 1,780 investigations, 468 were reinvestigations of employers previously found in violation of the child labor requirements. These reinvestigations found 70 percent of these employers in compliance.

In 2000, Wage and Hour continued to conduct a number of regional and local child labor industry-specific strike forces involving restaurants, recreational businesses, malls/retail stores, groceries and movie theatres:

➤ Of the 12 recreational establishments investigated in the Washington, DC, area and in Ocean City, MD, only one was in compliance. CMPs of \$165,375 were assessed for 267 child labor violations.

➤ Of the 24 employers reinvestigated in the tourism industry in Myrtle Beach, SC, 21 (88%) were found in compliance. A total of 17 minors were found in violation and CMPs of \$28,450 were assessed.

Child Labor Enforcement Program

	1998	1999	2000
Number of Investigations Finding Child Labor Violations	1,237	3,117 ¹	1,810
Number of Children Found Employed in Violation	5,588	6,786	7,875

¹ The 1999 increase in the number of investigations finding child labor violations may be an artifact of the change in the agency's data reporting system.

➤ A statistically valid survey of restaurants in Hamilton County, OH, which established a compliance baseline of 72%, found 116 child labor violations—all Reg. 3 except for one hazardous occupations order violation.

1999 ENFORCEMENT HIGHLIGHTS

Bowerman Blueberries, Ltd., of Michigan was fined \$11,175 for violations that contributed to the death of a nine-year-old.

Bill Miller Bar-B-Q Enterprises, Inc., a San Antonio-based chain of restaurants, was fined \$216,600 for multiple child labor violations. A 16-year-old was killed in an automobile accident while delivering supplies.

Atlantic Adjustment Co., a Philadelphia automobile repossession firm, was fined \$20,275 after a 14-year-old was killed while employed to clean up a storage yard.

Ten businesses in the tourism industry in North Carolina's Outerbanks area were fined nearly \$30,000 for illegally employing teens. One of the minors was under 14, the legal age for employment.

Genuardi's Supermarkets, Inc., based in Pennsylvania, paid a fine of \$195,000 for employing 15-year-olds in violation of Reg. 3 hours standards, and agreed to take proactive steps to ensure compliance at some 30 stores.

The owner of a door-to-door candy sales operation, Manssor Alam Mian, in the Pacific Northwest, was fined \$9,250 for hiring 12- and 14-year-olds to peddle. The Department subsequently obtained a court order enjoining him from future violations.

Smith's Food and Drug Centers headquartered in Salt Lake City paid a fine of \$650,000 for Reg. 3 and hazardous occupations orders violations involving 745 teens.

GZK Inc., an operator of fast food restaurants in Ohio, was fined \$333,450 for allowing minor employees to illegally operate power-driven meat slicer machines. A 15-year-old suffered a serious finger injury as a result.

Teens Against Drugs and Alcohol, Inc. (TADA), a Louisiana Candy Sales Company, was fined \$118,250 for illegally employing 73 minors to sell door-to-door.

Pecos Cantaloupe, a Texas packing shed, was fined \$2,700 for employing three minors, ages nine, ten, and 11 to harvest onions.

2000 ENFORCEMENT HIGHLIGHTS

Tyson Foods, Inc., was assessed \$59,274 for violations which contributed to the death of a 15-year-old at an Arkansas plant and the serious injury of another 15-year-old at a Missouri plant.

Metro Home Insulation, Inc. in Elk River, MN, was assessed \$10,000 for the death of a 17-year-old illegally employed to drive company vans to deliver materials to construction sites.

Wagner's Meats in Louisiana was assessed \$121,800 for illegally employing 27 minors in hazardous occupations — two of whom were injured.

Mayer's Cider Mill in Webster, NY, was assessed \$51,450 for illegally employing seven minors, including a 12-year-old whose arm was severed while operating an auger.

Subscriptions Plus, Inc. of Oklahoma, was assessed \$15,050 for illegally employing teens to sell magazine subscriptions. The investigation followed a van accident in which seven of the 14 members of the sales crew were fatally injured in a crash in Wisconsin.

Several businesses in El Dorado County and neighboring counties in California were assessed \$55,880. Sixty percent of the businesses included in the strike force were found in violation — especially Reg. 3 hours. There were also underage minors and violations of hazardous occupations orders.

An operator of 13 McDonalds restaurants in Florida was assessed \$104,850 for illegally employing 306 minors.

An El Paso, TX, farmer d/b/a Sungro paid CMPs of more than \$3,000 when children as young as seven were found working in onion fields.

Hen-Kel Farm in Mansfield, PA, was assessed \$32,275 for illegally employing three minors, including a 15-year-old who died when the tractor he was driving overturned.

Hartman Enterprises, Inc., d/b/a Subway Sandwiches and Salads in Littleton, CO, was assessed \$18,625 in CMPs for illegally employing eight minors. A 15-year-old was murdered while working late on a school night.

Compliance Education

Compliance education serves to promote voluntary compliance by informing employers, educators, young workers, and their parents about the child labor laws so that they may make informed decisions about when and where young people should work. It is undertaken through a variety of methods. In both 1999 and 2000, Wage and Hour and its partners launched the annual *Work Safe This Summer* campaign which was timed to coincide with the increase in teen employment at the end of the school year to promote job safety for young workers. The agency also promoted its parallel campaign, *Fair Harvest/Safe Harvest*, which focuses on educating farmworkers, farm families and children about the dangers kids face in the agricultural workplace. To emphasize these important messages, all local Wage and Hour offices undertook outreach activities in local communities to communicate the Secretary's initiative and build partnerships with State and local governments.

Partnerships

Effective partnerships leverage limited enforcement resources by creating a "multiplier" effect in promoting compliance in communities and industries. The added support of partners can enhance the scope and effect of both enforcement and compliance education. In 1999, the International Association of Amusement Parks and Attractions, the National Recreation and Park Association, and the National Association of Theater Owners joined the existing sponsors who agreed to help educate the public on safe work for minors. Loews Cineplex Entertainment, too, joined us in the 1999 campaign by agreeing to

project a *Work Safe This Summer* slide in its theaters across the country.

JUNE 1999 LOCAL EDUCATIONAL INITIATIVES

Tops Markets promoted *Work Safe This Summer* on its public address system in all 75 supermarkets in western Pennsylvania and New York.

The Carpusel Center in Syracuse, NY, signed a partnership compliance agreement to ensure compliance with the child labor requirements applicable to paper balers and compactors.

Busch Gardens in Florida agreed to include compliance information in its summer hire training process.

Hiller's Markets in Michigan was recognized for its commitment to the hiring of young people and compliance with the child labor law.

The Governor of Arizona issued a Proclamation in support of *Work Safe This Summer*.

Six Flags Amusement Park in Arlington, TX, included an item in the monthly employee newsletter, posted an informational flyer throughout the park, and also provided the flyer to customers.

The mayor of El Monte, CA, and the City Council of Monterrey Park, CA issued Proclamations.

Offices visited local schools, shopping malls and agricultural associations and were interviewed for local television and radio programs.

The highlight of the 2000 *Work Safe This Summer* campaign was a video public service announcement featuring Secretary Herman and members of the Women's National Basketball Association's Phoenix Mercury.

Wage and Hour also pursues corporate-wide partnerships—particularly where it finds widespread or repeated violations—in order to implement effective child labor compliance practices throughout a corporation. After disclosure of widespread child labor violations, a major national retail department store chain, Sears, Roebuck and Company, agreed to undertake several initiatives, including compliance self-audits of its stores and the production of a training video, to ensure nationwide corporate child labor compliance.

Similarly, Toys R Us, agreed in a consent judgement to pay a \$200,000 fine and check all of its 706 outlets for compliance. In addition, the retailer agreed to have color-coded name tags for 14- and 15-year-old workers to help supervisors recognize them, keep their time cards in separate racks, and post the child labor hours restrictions on the company's intranet.

In another consent judgement, Rainbow Foods, a chain of 43 grocery stores in Minnesota and Wisconsin, agreed to pay a \$175,000 fine, conduct self-audits, implement a color-coded name tag system and provide training to minors and their supervisors.

Schools, employer associations, labor unions, community-based and advocacy organizations can and do help expand the scope of compliance education efforts and increase public awareness.

The Department also continues to work in partnership with the States to expand the breath and leverage of its enforcement and education initiatives. In early 1999, the Department announced a major educational initiative with the Interstate Labor Standards Association (an organization of State officials with responsibility for enforcing child labor laws) and the National Child Labor Coalition to educate consumers, parents, educators and the public on the dangers of youth peddling.

At the July 1999 meeting of the National Association of Government Labor Officials, Secretary Herman announced the establishment of the Federal/State Task Force to improve coordination of child labor enforcement and outreach activities and enhance communication including the sharing of data about the employment of youth and strategies about their safe employment. Subsequent to this announcement, the States of Florida and Tennessee signed Memoranda of Understanding with Wage and Hour agreeing to joint education presentations, prompt referral of complaints, joint investigations of "worst violators," making available disclosable evidence and records, quarterly exchange of enforcement information, and providing training.

In 2000, the Joint Federal/State Task Force on Child Labor launched the first combined Federal and State campaign to raise public awareness of the child labor protections. The Task Force's May 2000 campaign, *Spring Into Safety*, garnered participation from almost half of the States nationwide.

Increasing Public Awareness

The prongs of the overall compliance strategy—enforcement, compliance education, and partnerships—all contribute to increasing public awareness. In addition, Wage and Hour has issued press releases about our enforcement initiatives and proactively worked with print and media outlets to publicize the Federal child labor laws and our activities to ensure the safe and legal employment of our Nation's youth.

In addition to the three nationally targeted low-wage industries, Wage and Hour's strategic goals challenge the organization to increase compliance in other low-wage industries like restaurants, guard services, janitorial services, temporary help, and hotels/motels. Wage and Hour offices throughout the country assess the compliance

local initiatives

histories, complaint volume, and demographics of industries within their jurisdiction and decide which industries warrant a special focus. These regional and local initiatives include conducting statistically valid investigation-based compliance surveys; pre-test investigations to determine if the compliance findings warrant a full compliance survey; targeted compliance education; and investigations of worst and prior violators.

In 1999, local offices undertook more than 340 enforcement-related initiatives in support of increasing compliance, including among previous violators. For the most part, these initiatives were concentrated in

low-wage industries like health care establishments; restaurants; day care; retail; and hotels/motels.

For example, various local restaurant initiatives found compliance rates ranging from 22 percent in New Orleans to 70 percent in Northern New Jersey. Eleven (11) targeted restaurant initiatives around the country resulted in the finding of more than \$1.4 million in back wages due to 2,200 workers.

In 2000, local offices completed more than 200 enforcement initiatives with 20 specifically designed as reinvestigation initiatives, and 36 involved conducting statistically valid surveys. The industries most commonly targeted in these initiatives were agriculture (62), health care (35) and restaurants (14).

There were 39 local child labor initiatives.

Enforcement initiatives targeting nursing homes and residential care facilities found compliance rates ranging from zero in Southern New Jersey and Little Rock to 80 percent in Richmond. Reinvestigation initiatives found compliance rates of 38 percent in the Caribbean, 88

1999

Restaurants: An investigation-based compliance survey of restaurants in Chicago found 42 percent in compliance. The survey included 66 suburban restaurants. A total of \$411,752 in back wages was found due 743 employees. The majority of the violations resulted from the failure to pay required overtime pay. In addition to the wage underpayments, investigators found three restaurants with child labor violations.

2000

Health Care: A two-year initiative involving 62 Northern California residential care facilities found about 55 percent in compliance. Wage and Hour recovered more than \$171,000 in minimum wage and overtime back wages for 88 workers. The most common violation was paying live-in care providers on a salary, flat rate or shift rate basis, which resulted in an hourly rate of less than minimum wage and/or which did not provide for overtime pay.

percent in St. Louis and 100 percent in Wilkes Barre. These health care initiatives resulted in more than \$1 million in back wages due nearly 2,000 workers.

2000 Compliance Rates in Local Health Care Initiatives				
Location	Compliance Rate	Back Wages Found	Employees Due Back Wages	Child Labor
Northeast Region				
Albany	35%	\$251,165	307	Yes
Boston	20%	99,275	87	
Caribbean	38%	11,541	67	
Hartford	60%	8,830	19	
Manchester	75%	9,479	26	
Northern New Jersey	25%	10,577	27	
Southern New Jersey	Zero	10,468	19	
New York City	67%	26,360	38	
Philadelphia	50%	43,792	224	
Pittsburgh	60%	2,500	9	
Richmond	80%	1,000	42	
Wilkes Barre	100%	NA	NA	
Midwest Region				
Cleveland	68%	28,181	275	
Columbus	50%	14,100	105	
Detroit	68%	12,597	31	
Springfield	40%	31,935	232	
St. Louis	88%	Deminimus	0	Yes
St. Louis (rural)	50%	1,578		Yes
Southeast Region				
Dallas	50%	2,242	32	
Little Rock	Zero	16,201	46	
New Orleans	66%	18,171	39	
Western Region				
Sacramento	55%	81,102	37	
San Francisco	55%	6,508	75	
Seattle	53%	307,675	172	
West Covina	35%	53,880	47	

Improving customer satisfaction—in parallel with the other long-term goal of “achieving compliance” with labor laws—is important to Wage and Hour’s mission. Knowing who our customers are, what their needs are, and seeking to

customer satisfaction

meet their needs is essential for evaluating and revising compliance strategies as well as modifying the organization’s behavior to be more effective. Customer surveys measure how well the organization is doing in meeting customers’ needs and expectations. In 1999 and 2000, Wage and Hour completed a number of Customer Satisfaction Surveys, including surveys of:

1. Participants (employers) in Education and Outreach events.
2. Individuals who filed complaints under the Fair Labor Standards Act (FLSA).
3. Employers investigated under the FLSA (1999) and under all Acts (2000).
4. Individuals who filed complaints under the Family and Medical Leave Act (FMLA).
5. Individuals whose complaints were resolved by conciliations.
6. Contracting agencies using McNamara-O’Hara Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations.
7. State Labor Agencies.

Overall Findings

Information obtained from these Wage and Hour Customer Satisfaction Surveys disclosed the following:

Most participants at Wage and Hour education and outreach events do not include low-wage workers or new and small businesses. Alternative approaches and new strategies may be necessary to reach these target audiences.

Most (51 percent) of FLSA complainants believe that the most important service that Wage and Hour provides throughout an investigation is achieving employer compliance.

Employers investigated under FLSA (pursuant to a complaint) generally give Wage and Hour high approval for conducting investigations fairly, professionally and in a timely manner, and with a minimal burden on their operations. When the universe of employers surveyed was expanded to include all employers subject to any Wage and Hour enforcement intervention, the agency received a similar high approval rating.

FMLA complainants tended to be dissatisfied with the manner in which Wage and Hour handled their complaints. The level of dissatisfaction was slightly lower for complainants whose complaints were found to be valid (meeting the statute’s coverage and eligibility provisions). Strategies for improving customer communication with FMLA complainants are necessary to increase satisfaction with Wage and Hour services for this important group of customers.

Customer satisfaction is high for FLSA complainants whose cases are handled through conciliations. These complainants believe service is timely and over half of them received back wages.

Contracting agencies are generally satisfied with the service they receive from Wage and Hour's Office of Wage Determinations. Most contracting agencies responded that they would like to see improved technology—on-line wage determinations—and more training for them on government contracts.

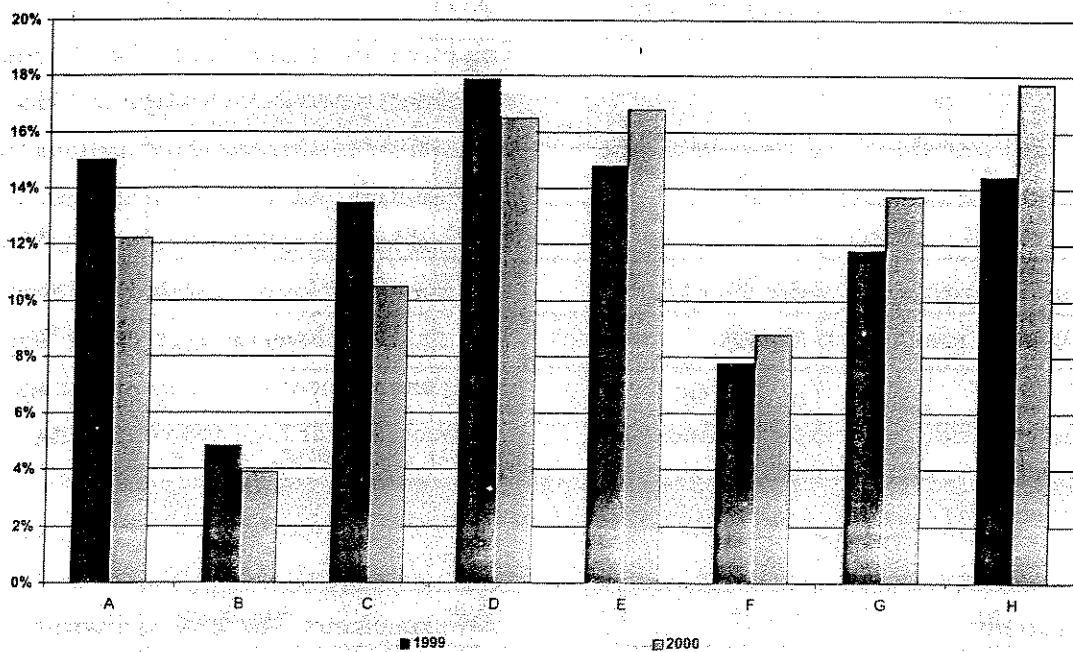
1999 and 2000 Education and Outreach Customer Survey

■ People who attended education and outreach events had already received information about Wage and Hour laws from a variety of different sources.

■ Nearly three-fourths of the people who attended Wage and Hour education and outreach events tended to be from the business community and over half were from medium or large size businesses. Only 7 percent of attendees were from new businesses (in business less than 2 years).

Education and Outreach Survey

Sources of Wage and Hour Information



- A Telephone call to the USDOL Wage and Hour Division
- B Investigation by the USDOL Wage and Hour Division
- C Attendance at a USDOL Wage and Hour Presentation
- D Membership in a Professional Organization
- E Newsletter
- F Internet
- G Other

■ In both 1999 and 2000, those who attended an education and outreach event indicated that they learned more about Wage and Hour laws as a result of attending. Over 60 percent indicated that they may need to reevaluate some of their payment practices.

1999 FLSA Complainants Customer Survey

Previous customer surveys were conducted in 1995, 1996 and 1997.

■ Most complainants believe thoroughness is the most important attribute of a Wage and Hour investigation.

■ Half of FLSA complainants indicated that getting the employer to comply with Wage and Hour laws is the most important service that the agency provides during an investigation.

■ Over 64 percent of FLSA complainants believed that Wage and Hour had secured future compliance from their employers. This represents a gradual and steady increase in customer satisfaction from a low of 52 percent in 1994.

■ Just over half (54%) of complainants responded that Wage and Hour adequately informed them of the progress of their case—down from a high of 63 percent in 1994. There is clearly room for improvement in Wage and Hour's communications with complainants as investigations progress.

■ On average, over 60 percent of FLSA complainants responded that Wage and Hour

adequately explained their case to them. Wage and Hour can increase customer satisfaction if it develops methods to better explain the results of investigations to those who seek our services through complaints.

■ Nearly 60 percent of complainants thought that Wage and Hour did a good job of securing their back wages—an increase from around one-half of those complainants who responded to this question in earlier surveys.

1999 and 2000 Employers Customer Survey

In 1999, Wage and Hour surveyed employers who had been investigated under the FLSA. Previous employer surveys of this universe were conducted in 1994 and 1996. In 2000, we expanded the scope of the employer survey to include employers investigated under all Acts.

■ Investigated employers generally believed that Wage and Hour investigations are conducted fairly and professionally.

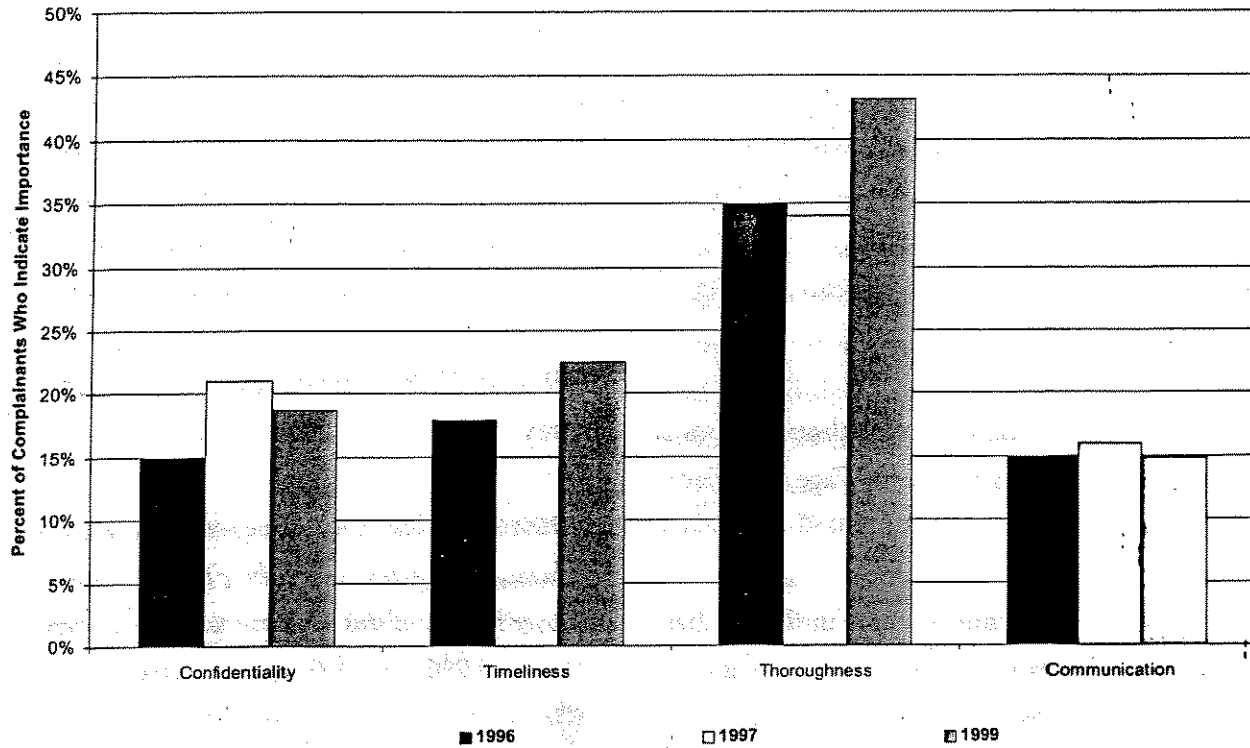
■ A majority (81%) believed that the investigations were handled in a "timely manner."

■ Employers reported that the "burden" placed on business operations by an investigation was minimal.

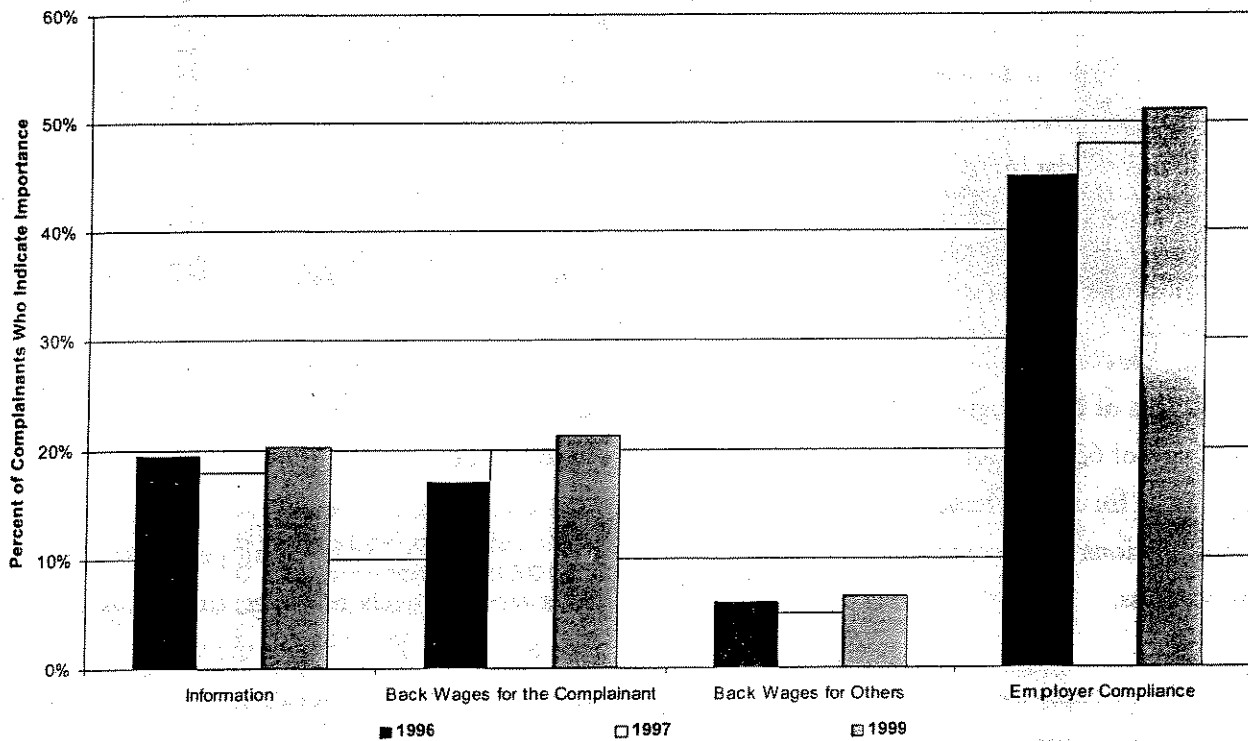
■ The majority of employers investigated under the FLSA rely on Wage and Hour publications for information about the law. The top three sources of Wage and Hour information for employers investigated under all Acts were publica-

FLSA Complainants Survey

Thoroughness is the Most Important Attribute of an Investigation

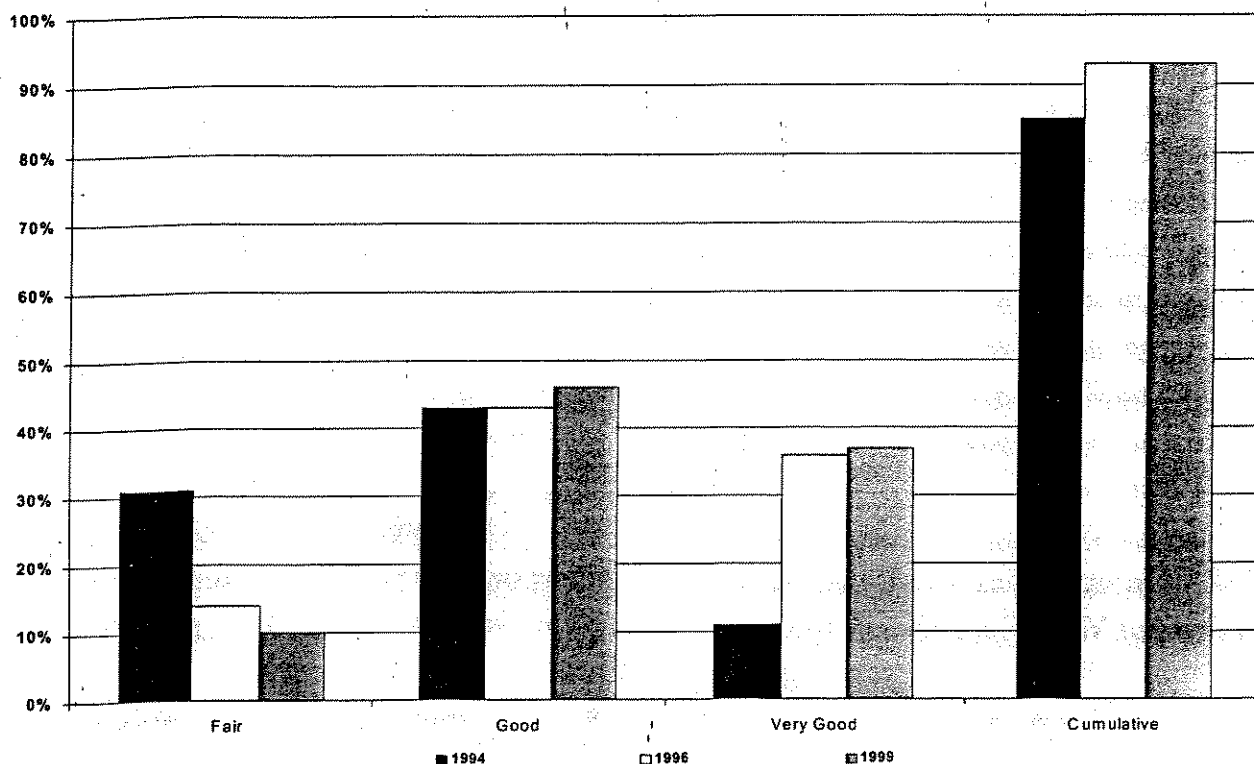


Compliance is Most Important Service for Complainants



Employer Survey

Most Employers Rate Wage and Hour Good



tions (20%), industry of company practices (17%) and personal experience (15%).

■ In the FLSA surveys, customer satisfaction with the overall performance of Wage and Hour increased with each year the survey was conducted. In the 2000 survey of all Acts, the cumulative rating of those who believed Wage and Hour did a fair, good or very good job in conducting the investigation was 92 percent.

1999 and 2000 FMLA Complainant Customer Survey

Wage and Hour conducted a baseline survey of FMLA complainants by phone in 1999 and followed that with a mail survey in 2000.

■ In 2000, 40 percent of FMLA complainants were dissatisfied (or very dissatisfied) with the manner in which Wage and Hour handled their complaints. While a slight improvement over the 1999 level of 52 percent, the percentage of dissatisfied customers remains too high. The specific areas of dissatisfaction were:

- Complainants are not kept informed of progress in their cases;
- Wage and Hour is not "customer friendly" in dealing with complainants;
- Wage and Hour is not proactive enough on behalf of complainants; and,
- Civil Money Penalties (CMPs) should be imposed for FMLA violations.

■ A fourth of the respondents in the 2000 survey stated that they had not been informed of the results of their FMLA complaint—an increase from the 1999 level of 44 percent.

■ Most FMLA complainants believe it takes Wage and Hour too long to resolve their complaints—nearly half (48%) of the complainants were either dissatisfied or very dissatisfied with the amount of time it took to resolve their complaints. Over 50 percent believed their complaints should have been resolved in one month; 20 percent were advised that it would take six months or more to resolve their cases.

FMLA Complainant Customer Survey - Analysis of Valid Complaints Only

The results of the FY 1999 FMLA Complainant Customer Survey were analyzed to determine if there was a difference in customer satisfaction between complainants whose complaints were found to be valid and complainants whose complaints were not found to be valid.

■ Of the FMLA complainants with valid complaints—fewer were dissatisfied or very dissatisfied with the way that Wage and Hour handled their complaints—38 percent compared to over 52 percent for all FMLA complainants.

■ Fewer of the FMLA complainants with valid complaints indicated that they were not informed of the results of their case—36 percent compared to 44 percent for all FMLA complainants.

■ Of the FMLA complainants with valid complaints 38 percent were dissatisfied or very dissatisfied with the amount of time it took to resolve their complaints compared to 48 percent for all complainants.

1999 Conciliation Complainant Customer Survey

During FY 1999, the Wage and Hour Division conducted a baseline customer satisfaction survey of complainants whose complaints were resolved through conciliations.

■ Over three-fourths (77%) of complainants whose cases were conciliated believe their complaints were handled in a timely manner.

■ Over 68 percent of the complainants believed that Wage and Hour did a good or very good job in explaining the results of the conciliation.

■ The complainants found out about Wage and Hour from a variety of sources. Most of them were referred to Wage and Hour by a telephone operator, by looking in the telephone book, by a family member or friend or by another government agency.

■ Most of the complainants (56%) contacted Wage and Hour about a single missed paycheck rather than a continuing paycheck problem.

■ Most of the single paycheck problems involved not getting the paycheck on the payday it was due (37%) or not getting the final paycheck (28%).

■ Most of the continuing paycheck problems involved not getting paid time and one-half over 40 hours per week (38%) or not getting paid for all hours worked (38%). Only 5 percent were not receiving the minimum wage.

■ More than half (54%) of the conciliation complainants received back wages.

■ Over three-fourths (77%) of the complainants attempted to collect the back wages that were due them before they filed the complaint.

■ Almost two-thirds of the complainants were filing the complaint solely on their own behalf and one-third were filing the complaint on behalf of themselves and others.

■ Nearly three-fourths (73%) of the conciliation complainants rated Wage and Hour performance as Fair, Good, or Very Good.

Contracting Agencies Wage Determination Customer Survey

In FY 1999, the Wage and Hour Division conducted a baseline customer satisfaction survey of contracting agencies and others who use the services of the Office of Wage Determinations.

■ Most of the SCA customers receive SCA wage determinations through use of the Standard Form (SF) 98—the notice of intention to make a service contract—and response to that notice.

■ Most respondents (83%) believed the process is easy to use; 94 percent thought that the

SCA wage determinations are easy to read and understand.

■ Most respondents indicated that the response time for SF-98 requests was 45 days or less. (The SCA regulations require a 60-day turnaround for SF-98 responses.)

■ A slight majority (56 percent) of respondents said that the response time met their needs. Of the respondents who indicated the response time did not meet their needs, half reported that 30 days would better meet their needs.

■ Many respondents indicated that the SCA wage determination response time would be improved by the ability to post and retrieve rates electronically.

Respondents indicated that typographical and grammatical errors were relatively minimal (79% with no errors), but nearly half of the respondents received incorrect wage determinations attached to their SF-98 response.

■ Most (68%) of respondents who telephoned the Branch of SCA Wage Determinations were able to reach someone who could address their concerns. Fifty-eight percent of the respondents received timely service. Nearly three-fourths reported that the Branch was able to address each of their concerns when they communicated by telephone.

■ Over 75 percent of the respondents indicated they would like to see more training conferences on government contract issues.

■ The majority of Davis-Bacon respondents indicated they obtained their published wage determinations electronically—through the FedWorld Internet site or other sources. About 25 percent of the respondents get printed copies from the Government Printing Office.

■ Nearly all (97%) of the respondents stated that the process to obtain Davis-Bacon wage determinations is easy to use. Ninety-one percent of respondents stated that the wage determinations generally contain the classifications needed, and 90 percent of respondents indicated that the wage determinations are easy to read and understand.

■ A number of respondents stated that the Davis-Bacon wage determination process would be improved by including pre-existing conformances with wage decisions and by providing Internet access to Davis-Bacon wage rates at no charge and increasing access to FedWorld.

■ Most respondents indicated that the response time for conformances was 30 days or less. (The Davis-Bacon regulations require a 30-day response time for conformances). Twenty-five percent of the respondents received conformances within one day.

■ Respondents indicated that typographical and grammatical errors were relatively minimal (93% with no errors). Only 7 percent of respondents reported overlapping classifications and 13 percent reported out-of-date rates. Examples of "Other" errors include incorrect rates and missing classifications.

■ Respondents who submitted correspon-

dence to the Branch of Construction Wage Determinations were evenly divided about the timeliness of the response. All of the respondents indicated that the language in response to correspondence was understandable. Most (83%) respondents indicated that they were satisfied with how their concerns were addressed.

■ Over three-fourths of the respondents indicated they would like to see more training conferences on government contract issues.

1999 State Labor Agencies Survey

■ Sixty percent of State Labor Agencies rated our joint efforts to increase compliance as good or very good.

■ An overwhelming majority (90%) indicated that their agencies would like to see existing partnerships expanded.

■ Ninety-five percent stated that these partnerships should focus on activities that complement (rather than duplicate) the enforcement efforts of our respective agencies.

.....No worker should have to choose between the job they need and the family they love. The Family and Medical Leave Act gives workers legal assurance that they can be there for their families in the difficult times without jeopardizing their jobs or health insurance.....

*Alexis M. Herman
Secretary of Labor*

Between the enactment of the Family and Medical Leave Act (FMLA) and the end of fiscal year 1999, Wage and Hour has completed compliance actions on more than 16,500 complaints against employers for alleged failure to comply with FMLA.

- 60% of complaints were valid where apparent violations of FMLA existed
- 40% were situations that were not covered by or did not violate FMLA

Nature of majority of complaints

- ◆ 46% — employer refusal to reinstate employee to same or equivalent position
- ◆ 22% — employer refusal to grant FMLA leave
- ◆ 16% — employer interfered with or discriminated against an employee using FMLA leave

To educate the public, Wage and Hour has maintained an aggressive outreach program by: delivering over 3,600 speeches, seminars, and media

events; responding to over three-quarters of a million telephone inquiries to our offices and the FMLA toll-free number; and by distributing public service announcements to all major markets.

fmla

Since November 1997, the "Employment Laws Assistance for Workers and Small Business" (*elaws*) system on the Internet (<http://www.dol.gov/elaws>) for FMLA compliance assistance information has had over 250,000 hits. In addition, between October 1999 and September 2000, there have been nearly 125,000 visits made to FMLA's home page, which provides user-friendly information as well as applicable regulations and the statute (<http://www.dol.gov/dol/esa/fmla.htm>).

In 1999, Wage and Hour completed compliance actions on 2,912 FMLA complaints and found violations affecting 1,781 of the complaints with total monetary damages exceeding \$5.8 million.

In 2001, Wage and Hour established a new goal to improve employer knowledge of the FMLA. To promote compliance with the FMLA, the agency will be examining employers' written policies and procedures on leave in all FMLA interventions, including conciliations, to inform and educate employers when their written policies are inconsistent with the statute and regulations.

In 2000, Wage and Hour sought and obtained additional budget resources to establish "Non-Traditional Partnerships."

Since the early 1990s, Wage and

Hour has been targeting resources to increase compliance in low-wage industries. Low-wage workers rarely complain to Wage and Hour, and for a variety of reasons, are often wary of government. Consequently the agency has been reaching out to intermediaries—non-governmental agencies and organizations such as: faith-based groups; unions; "English as a Second Language" groups; and other social service organizations with direct contact with low-wage workers—to help us reach workers to explain their rights and remedies for violations.

In 2000, Wage and Hour completed work on a training program for these intermediary groups and developed worker-friendly compliance materials to complement the training. The training is based on a comprehensive resource manual developed specifically for the intermediaries.

Building on an ongoing relationship with the National Interfaith Committee for Worker Justice (NICWJ), Wage and Hour worked with several Chicago area Department of Labor agencies to develop a set of church bulletin inserts, covering a variety of labor issues. The inserts, which were translated into eight languages, were made available on the NICWJ website www.nicwj.org to coincide with Labor Day. The inserts, translations, and contact info are on CD-ROM to be distributed to NICWJ's local organizations throughout the 50 States. This initiative is intended to serve as

a catalyst for developing local partnerships with worker advocacy groups.

non-traditional partnerships

In partnership with the American Academy of Pediatrics (AAP), Wage and Hour developed a poster and brochure about the Family and Medical Leave Act (FMLA) for distribution to 45,000 members of the AAP. The brochure and poster will help to further educate health care providers who play a critical role in providing medical certification for employees seeking to utilize FMLA as well as their patients. In addition to distributing the poster and brochure, AAP has agreed to also include in the package a letter from Secretary Herman and a medical certification form and to establish a link to the Department's FMLA compliance information on their website.

The FMLA brochure that was designed as part of this project will also be distributed through two local partnerships: the Springfield, Illinois hospital and clinic project, and the Syracuse, New York, AFL-CIO partnership.

Wage and Hour was also successful in partnering with the Federal Reserve Libraries to make Wage and Hour's *e-laws* advisor brochure a resource for library patrons, and with the Public Library Association to have the brochure distributed to their 9,000 members in their bi-monthly magazine. Both organizations have agreed to establish a link to the Department's *e-laws* on their respective websites.

In November 1998, the Employment Standards Administration and the Immigration and Naturalization Service signed a revised Memorandum of Understanding aimed at promoting job opportunities and better working conditions for legal U.S. workers through strengthened enforcement of fair labor standards and employer sanctions. A key goal of the agreement is to allay fears in the immigrant community that prevent complaints about labor abuses by unscrupulous employers from being filed with the Department of Labor.

other accomplishments

"What we are saying to all workers in the United States through this MOU is that your rights will be protected. What we are saying to employers who hire illegal workers is that you will find no bargain and risk prosecution."

*Bernard E. Anderson
Assistant Secretary for Employment Standards*

In 1999 and 2000 Wage and Hour completed several key steps in the Davis-Bacon wage survey/ wage determination reengineering effort including development of a new wage data collection form; implementation of an automated printing and mailing system; development of an imaging program; and testing of a computer assisted telephone inquiry system. The new wage survey data collection form is intended to reduce the burden associated with submitting wage payment information to the Department in response to a

Davis-Bacon wage survey. Other process improvements will facilitate data entry, and all will contribute towards the goal of improving the timeliness and accuracy of the resulting Davis-Bacon wage determinations.

Under the McNamara-O'Hara Service Contract Act (SCA), Wage and Hour worked with SCA stakeholders to develop and implement a methodology to integrate data from new Bureau of Labor

Statistics (BLS) survey programs into the SCA wage

determination program. The new methodology retains the existing SCA occupational structure. SCA wage determinations will now be based primarily upon data from BLS's National Com-

2000 Statistics

- Wage and Hour investigators conducted nearly 44,500 compliance actions and recovered over \$163,000,000 in back wages for more than 257,000 workers under the laws enforced by the agency.
- Child labor violations were found in 1,810 investigations, and 7,875 minors were found illegally employed.
- The agency collected over \$8.2 million in civil money penalties for violations of the minimum wage and overtime provisions of the FLSA, child labor and MSPA.

pensation Survey and supplemented by data from BLS's Occupational Employment Statistics survey.

Consistent with Wage and Hour's objective to "improve employers' knowledge—especially new and small businesses—of Wage and Hour laws and processes in order to promote compliance," in 1999, Wage and Hour published a package of "Information for New Businesses" explaining the laws enforced by Wage and Hour, listing available Wage and Hour publications, providing Internet addresses for other laws administered by the Department of Labor, and listing the locations and phone numbers of local Wage and Hour offices.

On September 5, 2000, Wage and Hour began operation of the first phase of the Technology for Excellent Customer Service (TECS) initiative—a National Toll-Free Help Line 1-866-4US-Wage (1-866-487-9243) answered at a call center. Trained customer service representatives answer all calls and refer all non-Wage and Hour calls—*e.g.*, questions about state laws, taxes, social security, workers' compensation, pensions, health benefits, discrimination, immigration, etc.—to the appropriate agency. Wage and Hour calls are referred to the correct District, Area or Regional Office.

Unlike other call centers that have launched costly promotion and publicity campaigns only to receive less than expected volume, the TECS call center began receiving 1,500 - 2,000 calls each day with only a message on Wage and Hour local office answering machines.

