

# STRATEGIC GOAL 2

## A SECURE WORKFORCE

Promote the Economic Security of Workers and Families



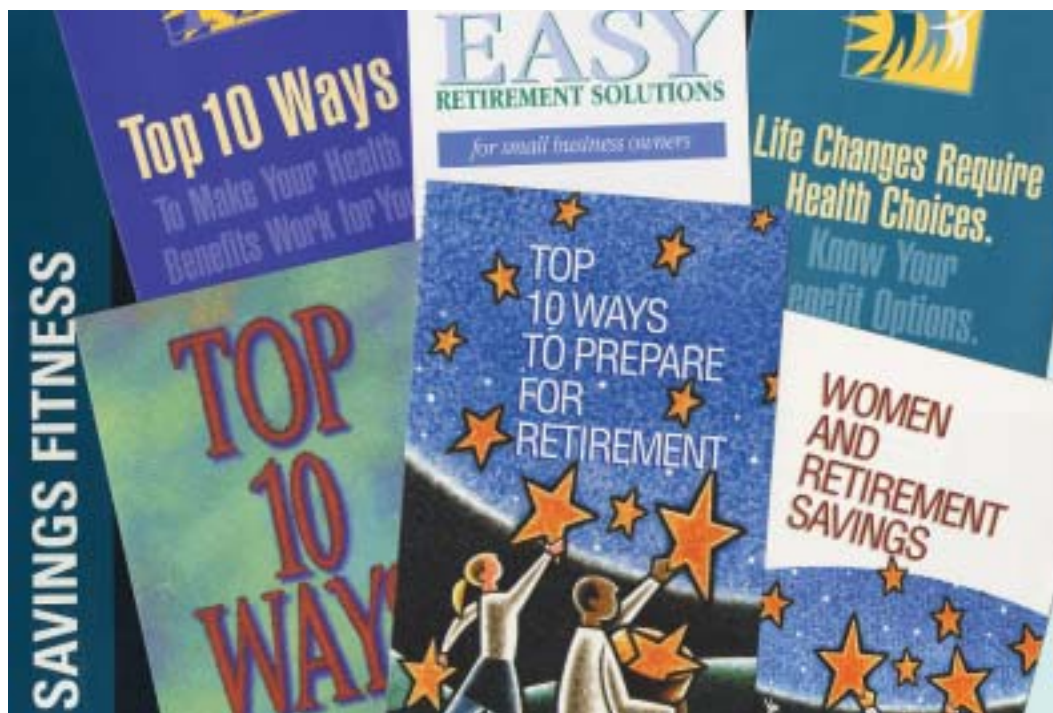
DOL is committed to promoting the economic security of workers and their families by protecting workers' hours, wages, and other job conditions; providing unemployment compensation and other benefits when workers are unable to work; and expanding, enhancing, and protecting pension, health care, and other benefits. Priorities are to increase compliance with minimum wage and overtime requirements; promote secure retirements for working Americans; provide more pensions for women and employees of small businesses; broaden access to health care; and shorten periods of unemployment in those areas suffering from rapid economic change.

Virginia Employment Commission and DOL personnel staff a temporary site at Reagan National Airport to process unemployment applications for airport workers unemployed in the aftermath of September 11.

Photo by: Shawn Moore

OUTCOME  
GOAL 2.1 -  
INCREASE  
COMPLIANCE  
WITH WORKER  
PROTECTION  
LAWS

PWBA pamphlets provide information to the public on retirement and health benefits planning.



## Overview

The Department of Labor administers and enforces more than 180 Federal laws. These mandates and their governing regulations cover over 10 million employers and 130 million workers in various workplace activities. DOL enters the 21st Century having recently celebrated both the 63rd anniversary of the Fair Labor Standards Act (FLSA), which established minimum wage, overtime standards and child labor restrictions, and the 27th anniversary of the Employee Retirement Income Security Act (ERISA), which protects the integrity of private pension, health, and other employee benefit plans. While these hallmark worker protection laws have endured, many new and difficult issues have arisen as dynamic and complex changes transform America's workforce.

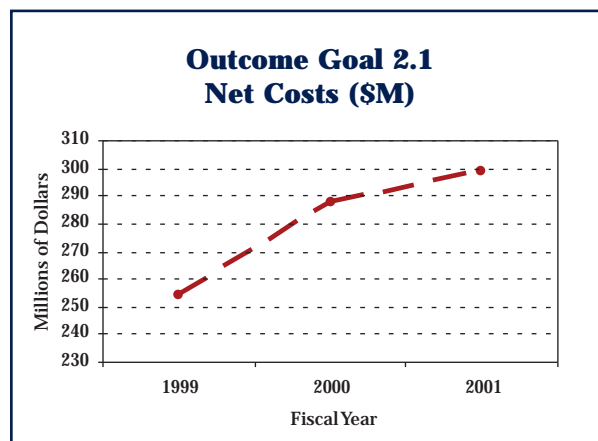
## Serving the Public

In furthering the economic security and welfare of workers and families, the Department utilizes a multi-pronged approach, which includes compliance assistance, education, private/public partnerships and, when that fails, a balanced consistent enforcement program involving all segments of business and industry—contractors, manufacturers, retailers, consumers, worker advocacy groups, financial and health care communities and unions. The DOL organizations dedicated to achieving this goal are the Employment Standards Administration and the Pension and Welfare Benefits Administration. Both agencies have developed compliance assistance programs that encourage up-front compliance through public education and outreach, as opposed to traditional after-the-fact enforcement techniques. In addition, significant resources are devoted to increasing public access to vital information used to monitor and secure entitlements. An informed public enables individuals and practitioners to better understand their rights under the law. Each year, the Department

distributes thousands of publications and pamphlets that provide basic information about voluntary compliance, and staff conduct dozens of educational meetings, conferences, and seminars, as part of the DOL outreach effort. More recently, the Department has experimented with voluntary correction programs that have been well received by the regulated community, such as the Voluntary Fiduciary Correction Program and the Delinquent Filer Voluntary Compliance program. In support of the enforcement of laws designed to guarantee an honest day's pay for an honest day's work, DOL engages in partnerships with employer associations, multi-establishment employers, commercial consumers, the States, and 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 workers, especially low-wage workers. DOL has an ongoing relationship with the National Interfaith Committee for Worker Justice, and projects—such as including labor and safety issues in church bulletin inserts—are underway.

## Program Costs

The FY 2001 net costs for Outcome Goal 2.1, at \$299 million, represent the compliance assistance and enforcement efforts of both the Employment Standards Administration, which is responsible for upholding minimum wage, overtime and other workplace standards and the safeguarding of union democracy; and the Pension and Welfare Benefits Administration, which is responsible for oversight of pension and health benefit plans. The increase in costs addressed, in part: expanding responsibilities in the health care arena resulting from laws passed between 1996 and 1998; enhanced electronic filing and compliance assistance for the ERISA Filing Acceptance System; continuing implementation of a nationwide toll-free help line to provide employers and employees with information about Federal minimum wage, overtime, child labor, and record keeping requirements; and continuing e-government improvements, including electronic filing of union annual financial reports and an internet-based public disclosure system for union reports.

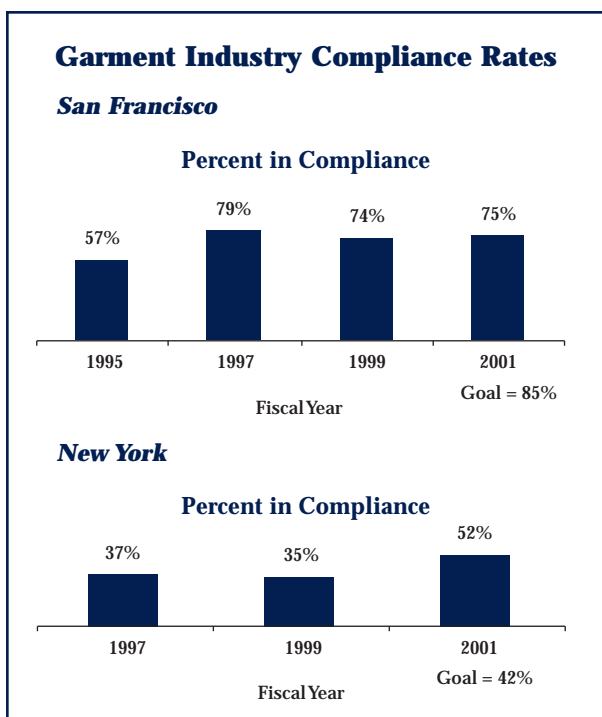


## DOL Challenges for the Future

The primary challenge for DOL's worker protection agencies in the 21st Century will be to ensure that the protections are appropriate for and keep pace with the changes occurring in the American workforce. Virtual workplaces, aging workers, increased numbers of women and minorities in the workforce, immigration, organized labor, the growth of small businesses, and the ongoing shift from a manufacturing to a service economy will all be important factors as U.S. businesses strive to comply with worker protection laws in the future. The use of technology assists the Department to more effectively inform employers of their obligations and to protect workers' benefits and rights. For example, e-government initiatives provide more readily accessible disclosure of public records; technical assistance on workplace-related issues such as family and medical leave, minimum wage, and overtime; and electronic form filing such as the ERISA Filing Acceptance System. In addition, toll-free customer service "Help Desks" provide new opportunities for interactive assistance between the Department and its customers.

## PROTECT LOW-WAGE WORKERS

**Increase compliance with labor standards laws and regulations including young workers in nationally targeted industries. In FY 2001, increase compliance in the garment industry to 85 percent in San Francisco and 42 percent in New York City; in agricultural commodities — to 47 percent in onion, 80 percent in tomato, and 70 percent in lettuce; and in the health care industry — to 62 percent in residential health care (assisted living facilities).**



**Results:** This performance goal was not achieved. Compliance with labor laws and standards met the performance targets in the New York City garment industry and in the agricultural commodity of lettuce. Compliance improved in the residential health care (assisted living facilities)

industry and in the agricultural commodity of onions, but fell two and four percentage points short of the goals, respectively. Compliance remained relatively steady in the San Francisco garment industry and declined in the agricultural commodity of tomatoes.

**Program Description:** DOL's Employment Standards Administration (ESA) is responsible

for administering and enforcing laws that establish the minimally acceptable standards for wages and working conditions in this country. These labor standards statutes, including the Fair Labor Standards Act (FLSA), and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), provide critical protections for low-wage workers and the working poor, and the goal measures progress toward improving conditions in industries with significant historical levels of non-compliance with the standards.

**Analysis of Results – Background:** The labor standards compliance problems in the targeted industries are among the most pervasive and serious in the U.S. The factors that led the Department to target these industries – increasing reliance on immigrant and minority workforces, intense external competitive pressures and high turnover rates – remain prevalent today, and the current compliance levels reflect their impact.

The major garment centers in the U.S. are in New York City, southern California and the San Francisco Bay area. According to BLS data, in October 2001, the garment industry employed approximately 542,000 workers in the U.S.—down from just over one million in January 1990. These garment workers are mostly immigrant (both legal and illegal), vulnerable to exploitation and unlikely to complain about unsafe working conditions and failure to receive wages. The 542,000 figure does not, however, include what is believed to be a relatively large number of workers in the underground economy – especially in New York City and southern California where the garment industry is most unstable. Former garment workers own many of the

contractor shops in these areas, and due to their lack of management knowledge, rarely remain in business for a sustained period of time. The manufacturers that contract with them are now being adversely impacted by fierce competition, demands for quick turnaround for goods and the pressures of the global economy.

Instability also increasingly characterizes the agricultural labor market. The U.S. is harvesting more labor-intensive crops, such as vegetables, fruits, nuts, and berries, than ever before. In many other industries, wages increase with sales and productivity gains, but agricultural worker earnings have decreased in real terms (in 1998 dollars) over the last ten years. By most measures, farm workers were worse off in the late 1990s than they were ten years earlier. Farm workers found fewer weeks of employment, earned less per hour in real terms, continued to have poverty level earnings, and less frequently used public assistance programs designed to ease the effects of poverty on the working poor. The industry also has experienced increased competition from newcomers willing to work for much less and under much harsher conditions than those they replaced.

Community-based, residential home-like facilities that provide "custodial" as opposed to "medical" care typically comprise the residential care segment of the long-term care industry. The industry employs some 500,000 workers, and unlike the more institutional-based nursing home segment, the residential care industry tends to employ fewer workers per facility. Over 70 percent of employees are women and more than one-fourth are minorities. Pay arrangements are often informal and may include only



the provision of room and board for individuals who stay overnight to provide on-site assistance as needed. Payroll records are often non-existent. Many smaller operations are unfamiliar with the Federal minimum wage and overtime requirements.

Photo from: Department of Agriculture website.

An industry-specific analysis of the results follows.

### ***San Francisco Garment Industry***

**Analysis of Results:** The 2001 San Francisco garment investigation-based survey found 75 percent of employers in compliance with both the minimum wage and overtime requirements – not a statistically significant change since the prior survey in 1999 when the level of compliance was determined at 74 percent, but a nearly 20 percentage point increase since 1995. As with earlier surveys, compliance with minimum wage requirements was higher than with overtime. Ninety-four percent of the firms investigated complied with the minimum wage provision while 75 percent of firms complied with the FLSA overtime provision.

Although the level of compliance remained virtually the same as in 1999, albeit at a high rate as compared to New York City and southern California, the survey in 2001 found indications of improvement, especially for the low-wage production workers (those who sew, press and trim apparel goods). In 2001, 88 percent of the shops with low-wage production workers were in compliance as compared to 81 percent in 1999. In addition, the data show that 96 percent of employees were paid correctly as compared to 87 percent in 1997.

Over time, the severity of the violations has significantly decreased. For example, over a six-year period of time, the average amount of back wages per case has dropped from more than \$1,200 to about \$190. Since 1995, the level of compliance with both minimum wage and overtime requirements has increased by more than 30 percent. In 2001, the average back wages due per employee paid in violation was \$212, down from \$274 in 1999. These improvements evidence the effectiveness of the Department's multi-prong strategy of compliance assistance, partnerships, collaborative efforts, and enforcement.

**Strategies:** Given the improvement in the level of compliance among San Francisco garment shops since 1995 and the reduced severity of the violations, the Department's performance goals in FY 2002 and beyond will not focus on the San Francisco garment industry. DOL has developed a program in FY 2002 to maintain or improve the current level of compliance, continue aggressive compliance assistance for the industry, and focus enforcement on repeat and willful violators. The Department will also continue to work with the State of California under the Targeted Industries Partnership

Program (TIPP) to explore opportunities for joint compliance assistance and outreach initiatives.

### *New York City Garment Industry*

**Analysis of Results:** The 2001 New York City garment survey found 52 percent of employers in compliance with both minimum wage and overtime requirements – an increase from 37 percent in 1997 and 35 percent in 1999. As with earlier surveys, compliance with minimum wage requirements was higher than with overtime. Eighty-seven percent of the firms investigated were in compliance with minimum wage provisions while 52 percent of firms were in compliance with the FLSA overtime provisions.

The 2001 survey found a significant improvement in compliance. The level of compliance with both the minimum wage and overtime requirements is 17 percentage points or 50 percent higher in 2001 than in 1999. Compliance with the minimum wage requirement increased 25 percent from 69 percent in 1999 to 87 percent in 2001. The average back wages due per shop with minimum wage or overtime violations dropped 50 percent to \$6,042 in 2001 from \$12,099 in 1999. Similarly, the average back wages due per employee dropped 50 percent to \$251 in 2001 from \$516 in 1999.

The survey also found that more garment workers are being paid correctly. The percent of employees overall paid correctly has increased by nearly two-thirds between 1997 (38 percent) and 2001 (62 percent). The percent of employees paid minimum wage correctly increased to 93 percent in 2001 from 83 percent in 1999. Also, the percent of employees paid overtime correctly increased from 42 percent in 1999 to 62 percent in 2001.

**Strategies:** The Department will continue with its multi-prong strategy in the New York City garment industry. Specifically, in FY 2002, the Department is planning to continue its program of visiting newly registered contractor shops to offer compliance assistance. DOL will also continue to work with the New York City Apparel Industry Compliance Partnership, a group of manufacturers and others attempting initiatives such as training of contractor shops. In addition, to promote compliance monitoring, a strategy that has proven to raise compliance rates by as much as 28 percentage points, the Department will conduct directed investigations of manufacturers which were previously investigated for violations of the "hot goods" provision of the FLSA or which have a history of contracting with chronic violators. Shops that are prior violators will be a focus of the Department's attention. Where appropriate, serious and repeat violations will be considered for litigation. Finally, the Department will continue its coordination with the New York State Department of Labor and the New York State Attorney General's office, and explore opportunities for referring egregious violations for prosecution under State law.

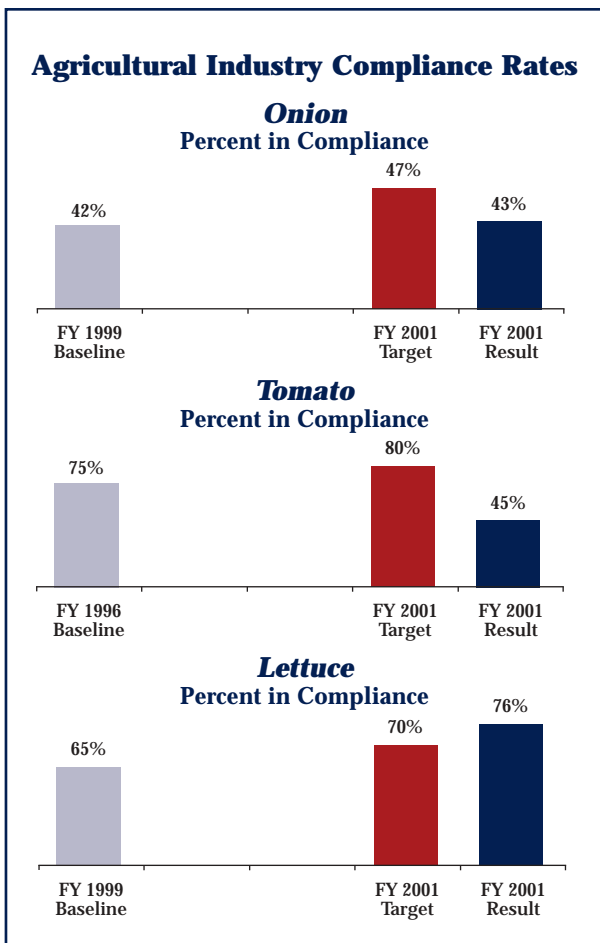
### ***Agricultural Commodities (Lettuce)***

**Analysis of Results:** ESA found compliance in the agricultural commodity of lettuce to be 76 percent, exceeding the performance goal of 70 percent. Unlike other hand harvested crops, a few large shippers/packers or brokers control the agricultural commodity of lettuce beginning with the initial planting and continuing through final harvest. The concentration of the shippers/packers – primarily in California – aided in the dissemination of compliance assistance and permitted DOL to focus its compliance intervention strategies in a more direct fashion. The control exerted by the shippers/packers, in turn, may have contributed largely to the increase in compliance rates found this fiscal year in the lettuce crop.

### ***Agricultural Commodities (Onions)***

**Analysis of Results:** Compliance with both the minimum wage and overtime requirements increased to 43 percent; however the goal of increasing compliance to 47 percent was not achieved. In the agricultural industry, the Department also oversees provisions of the Migrant and Seasonal Agricultural Worker Protection Act, such as housing and

**W**hen investigations of 10 nursing homes in Indiana revealed that for a variety of reasons, all were failing to pay overtime, ESA's Wage and Hour Division took action. Working in collaboration with the Continuing Education Division of Indiana University, Wage and Hour personnel prepared a compliance assistance workshop for nursing home administrators covering such topics as minimum wage, overtime pay, and the child labor requirements of the Fair Labor Standards Act (FLSA). Flyers advertising the workshop were sent to area nursing homes, and a news release reporting the results of the investigations and of Wage and Hour's intent to investigate violators in the future was sent to county officials and the local nursing home association. Promoting the workshop produced a high level of interest. The workshop was attended by more than 20 nursing home administrators, and compliance rates improved significantly: A recent re-investigation of nursing homes in the same geographical area found 100 percent compliance with the FLSA.



transportation requirements, which directly affect farm workers' lives, and identified improved compliance in some specific MSPA areas. In the 1999 survey, the clear majority of violators – 25 out of the 26 establishments found in violation (96 percent) – had violated at least one of the critical MSPA provisions, and this rate decreased to 76 percent (28 out of 37 establishments

found in noncompliance) in 2001, an improvement of 20 percentage points. Compliance with the wage provisions also increased (93 percent of establishments paid workers in compliance in 2001 compared to 86 percent in 1999), and with the FLSA child labor provisions – 98 percent compliance in 2001 compared to 96 percent in 1999.

**Agricultural Commodities (Tomatoes)**

**Analysis of Results:** Although the compliance survey in the tomato sector found a 45 percent level of compliance, significantly below the 80 percent target, some progress had occurred. An analysis of the findings reveals that of the 33 establishments found in violation, only seven of those (21 percent) had multiple MSPA violations.

Ninety-three percent of the establishments paid employees in compliance and, of those employers who provided transportation, 95 percent provided safe vehicles that were driven by properly licensed drivers.

Further analysis of the compliance baseline of 75 percent for the tomato sector, first established in 1996, has raised questions about the validity of this measure which served as the basis for the FY 2001 target. The 1996 data were developed prior to measurement standards and criteria implemented in 1997. The Department therefore will use the compliance rate found in the 2001 tomato survey as the current baseline level of compliance for future measurement.

**Strategies:** In each commodity, the Department will provide enhanced compliance assistance, and continue to collaborate with employer organizations, employee groups and other interested or affected groups to identify and communicate issues, including best practices. To further impact compliance, DOL will better focus its efforts and use innovative methods of influencing the behavior of "bad actors," especially those employers who egregiously violate the law or have a history of violations. A progressive enforcement strategy – which includes increased focus on report violators, stepped-up civil monetary penalties commensurate with the seriousness of the violation(s), revocation of Farm Labor Contractor licenses, use of the joint employment principles and use of the FLSA's "hot goods" provisions to influence those who do business with the "bad actors" – will be employed to provide a deterrent to violation of the laws affecting farm workers.



The Department will continue its partnering with State government agencies—including State departments of labor—to more effectively provide compliance assistance to employers and employees. In addition, DOL will explore expansion of existing partnerships and creation of new partnerships to facilitate cooperation between the agencies and better leverage limited resources in order to positively impact compliance levels. Finally, specific compliance problems in the agriculture sector will be analyzed in detail by commodity and by geographic area – to better target compliance assistance efforts on the issues most affecting employers and employees.

### ***Residential Health Care (Assisted Living Facilities)***

**Analysis of Results:** The 2001 residential living survey found 60 percent of employers in compliance – an increase of 3 percentage points over the baseline level of 57 percent set in 1998. Although the goal of increasing compliance by five percentage points was not met, the results show positive movement and – with continuing emphasis on compliance in the industry – hold the promise for long-term improvements. As with the FY 1998 baseline survey, the employers most frequently violated the overtime provisions. In FY 2001, 63 percent of the facilities complied with the FLSA overtime provisions – a slight increase over the baseline level of 61 percent overtime compliance. Ninety-three (93) percent of facilities complied with the minimum wage standards – an eight percent increase over the 85 percent level of minimum wage compliance in FY 1998.

**Strategies:** Given the increasing trends in compliance demonstrated by

the FY 2001 results, the Department will continue its balanced approach of compliance assistance, enforcement and partnership/collaborative efforts in the residential living segment of the health care industry. Particular emphasis will be directed to increasing compliance with FLSA record keeping requirements, which contribute in large part to the types of overtime violations found. The Department will also focus additional compliance assistance efforts on facilities in those geographic areas that demonstrated higher levels of non-compliance. Working with State licensing agencies, DOL also will disseminate compliance assistance materials to residential facilities.

### **Goal Assessment and Future Plans:**

The Department is in the process of identifying performance goals and indicators that more comprehensively measure the impact of the employment standards programs, including interventions resulting from the complaints of workers in all industries as well as special initiatives aimed at improving conditions for low-wage workers. With these objectives in mind, ESA developed new performance goals for FY 2002:

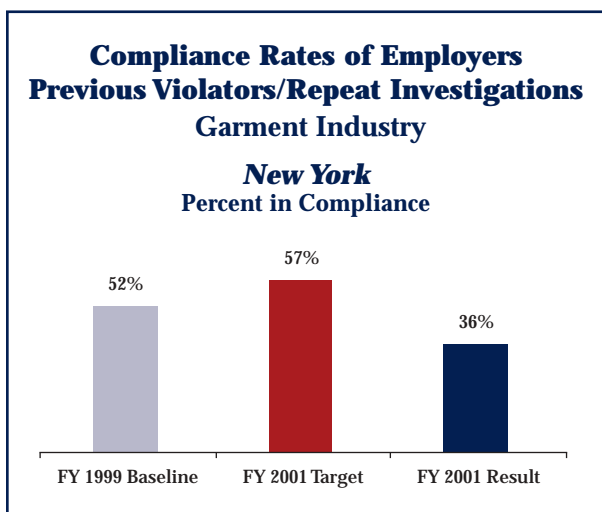
Covered American workplaces legally, fairly, and safely employ and compensate their workers as indicated by:

- Reducing employer violation recidivism; and
- Increasing compliance in industries with chronic violations. ■

*(Goal 2.1A — FY 2001 Annual Performance Plan)*

## EFFECTIVE ENFORCEMENT OF LABOR STANDARDS

**Increase compliance by 15 percentage points (10-15 percentage points based on years surveys are conducted) among employers, which were previous violators and the subject of repeat investigations in nationally targeted industries. In FY 2001,**



**improve reinvestigation compliance rates in the garment industry to 90 percent in San Francisco and 57 percent in New York City; in agricultural commodities – to 64 percent in tomato, 47 percent in onion, and 48**

**percent in lettuce; and in the health care industry – to 60 percent in residential health care (assisted living facilities).**

**Results:** This performance goal was not achieved. Compliance improved among reinvestigated employers in the residential health care (assisted living facilities) industry and declined among reinvestigated employers in the New York garment industry. No determination was made regarding the level of compliance for previous violators in the agricultural commodities of tomato, onion, and lettuce because of difficulties in obtaining a statistically valid sample. The previously determined baseline level of compliance for reinvestigated employers in the San Francisco garment industry was found to be invalid.

**Program Description:** DOL's Employment Standards Administration (ESA) administers and enforces laws that establish the minimally acceptable standards for wages and working conditions in this country. These labor standards statutes – including the Fair Labor Standards Act (FLSA), which establishes the minimum wage, overtime standards, and child labor restrictions – serve to protect the most vulnerable workers in the workplace: low-wage workers and the working poor.

**Analysis of Results:** This goal measures the effectiveness and lasting value of the Department's intervention strategies and represents the level of improvement from non-compliance. The same extrinsic factors and industry dynamics that impact overall compliance also contribute to the level of compliance among prior violators. Moreover, the subset of the industry measured for recidivism may display characteristics unlike the general industry universe. For example, in the New York City garment industry, prior violators tend to operate so close "to the margin" that they either violate the law or go out of business – an economic condition that does not necessarily characterize the New York City garment-manufacturing universe as a whole. Nevertheless, DOL has shown measurable increases in compliance among those previously investigated and found in violation in each of the targeted industries where a statistically valid sample was available. In New York City garment, for example, 36 percent of the contractor shops did change their employment behavior and began paying their workers in compliance with the law. In the residential living industry, where many prior violators had been unaware of the FLSA and

their obligation under the law, 70 percent of violators came into compliance.

An industry specific analysis of the results follows.

### ***San Francisco Garment Industry***

**Analysis of Results:** Overall the compliance level for employers previously found in violation was 76 percent. This is the first year that a statistically valid baseline of compliance was determined.

**Strategies:** Given the improvement in the level of compliance among San Francisco garment shops since 1995 and the less serious nature of the violations, the Department's performance goals in FY 2002 and beyond will not focus on the San Francisco garment industry. DOL has developed a program in FY 2002 to maintain or improve the current level of compliance, continue aggressive compliance education for the industry, and focus enforcement on repeat and willful violators.

### ***New York City Garment Industry***

**Analysis of Results:** The overall compliance level for employers previously found in violation was 36 percent, down from 52 percent in 1999. Although disappointing, this drop in compliance is not surprising. Directed investigations since the 1999 survey, although not statistically valid, have shown similar low rates of compliance among recidivists. These investigations, as well as the survey, demonstrated that a number of the contractor shops previously found in violation by the Department were not in business six to twelve months later. Contractor shops in New York City

operate "on the margin" in an industry already characterized as unstable. Many of these shops cannot afford to pay the required wages, particularly overtime, and still remain competitive and in business. As a result, they typically go out of business. Those that stay in operation generally continue with their non-compliant behavior to remain competitive.

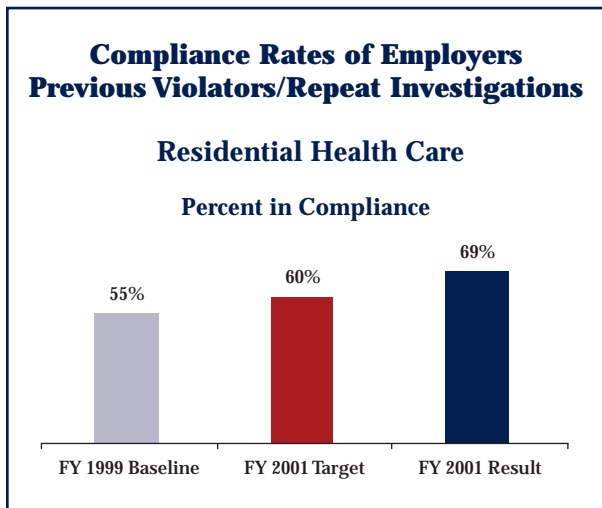
**Strategies:** DOL will continue with its multi-prong strategy in the New York City garment industry. Specifically, in FY 2002, the Department is continuing its program of visiting newly registered contractor shops to offer compliance assistance. DOL will also continue its collaborative efforts with the New York City Apparel Industry Compliance Partnership, a group of manufacturers and others, engaged in initiatives such as training of contractor shops. In addition, to promote compliance monitoring, DOL will conduct directed investigations of manufacturers which were previously investigated for violations of the "hot goods" provision of the FLSA or which have a history of contracting with contractor shops that are chronic violators. In addition, the Department will work with contractor shops to increase the number that maintain the required payroll records. Failure to maintain proper records often contributes to violations – particularly overtime. Finally, DOL will continue its coordination with the New York State Department of Labor and the New York State Attorney General's office and explore opportunities for referring egregious violations for prosecution under State law. Where appropriate, serious and repeat violations will be considered for litigation by the Department.

**Agricultural Commodities (Lettuce, Onions, Tomatoes)**

**Analysis of Results:** No determination could be made regarding the level of compliance for

previous violators because the number of employers investigated was insufficient to yield a statistically valid result.

**Strategies:** The Department has prepared new performance goals to



comprehensively assess improved compliance among all employers that previously violated labor standards, and factored the measurement problems reflected in this section into the development of the new indicators.

**Residential Health Care (Assisted Living Facilities)**

**Analysis of Results:** Of prior violators investigated in the FY 2001

survey, 69 percent were in compliance with the minimum wage, overtime and child labor provisions. This represents an increase of 14 percentage points over the 55 percent baseline level of compliance among prior violators found in FY 1998.

**Strategies:** Given the increasing trends in compliance demonstrated by the FY 2001 results, DOL will continue its balanced approach of compliance assistance, enforcement and partnership/collaborative efforts in the residential living segment of the health care industry. Particular emphasis will be directed to increasing compliance with FLSA record keeping requirements, which contribute, in large part, to the types of overtime violations found, and compliance assistance will be directed to those geographic areas that demonstrated higher levels of non-compliance. The Department also will work with State licensing agencies to disseminate compliance assistance materials to residential facilities.

**Goal Assessment and Future Plans:** The Department is in the process of identifying performance goals and indicators that more comprehensively measure the impact of the employment standards programs, including reducing employer recidivism in all industries as well as special initiatives aimed at improving conditions for low-wage workers. The Department will discontinue reporting on employer recidivism by specific low-wage industries, but will gather and analyze this data to assist in the development of more effective compliance assistance program and to pursue aggressive enforcement action against serious and repeat violators, as appropriate. ■

*(Goal 2.1D — FY 2001 Annual Performance Plan)*

Photo from: DOL's Eyewire Images photography library.



## INCREASE UNION REPORTING COMPLIANCE

**Achieve timely union reporting such that a minimum of 88% of unions with annual receipts greater than \$200,000 timely file union annual financial reports for public disclosure access.**

**Results:** This performance goal was not achieved. For FY 2001, 83.1 percent of unions with annual receipts greater than \$200,000 timely filed union annual financial reports for public disclosure access.

**Program Description:** Through the administration and enforcement of the Labor-Management Reporting and Disclosure Act, DOL's Employment Standards Administration (ESA) safeguards union democracy and financial integrity. Making union financial reports available for public disclosure is central to this mission.

**Analysis of Results:** During FY 2001 DOL introduced a new format for the filing of union financial reports to facilitate the implementation of an Internet public disclosure system scheduled for early in calendar year 2002. The new system will offer ready Internet access to unions' financial statements for their members and others with an interest in the financial activities of labor unions, and will enable the unions to file the required reports electronically, reducing administrative burdens and expediting filing procedures. However, the new reporting forms caused a set-back, expected to be temporary, in previous gains in timely report filing by labor organizations as union filers experienced some problems adjusting to the revised formats. The new electronic reporting format to be initiated in calendar year 2002 should eliminate the problems encountered in FY 2001 and facilitate reporting for

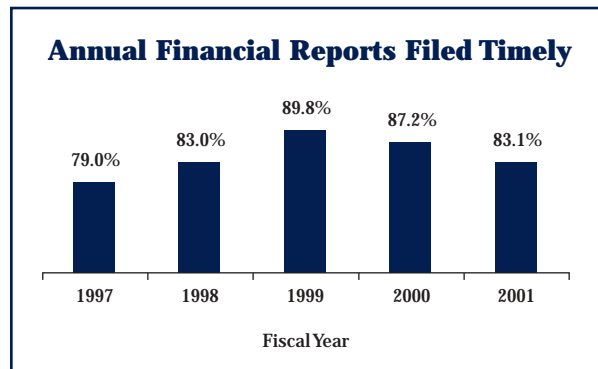
unions. DOL will continue efforts with liaison and compliance assistance to further the objectives of timely and accurate union financial reporting.

**Strategies:** The Department routinely employs a variety of liaison and compliance assistance strategies to achieve timely reporting by unions. For

example, the Department contacts unions delinquent in filing the prior year's reports to remind them of their obligations for timely financial reporting, and establishes liaison with a number of international unions to encourage their assistance in promoting timely report-filing by their affiliates. In FY 2001, special contacts were made to inform union filers about use of the new union annual report forms, including special liaison and compliance assistance contacts with officials of approximately 20 major international unions. The Department will emphasize compliance assistance in FY 2002 to further improve the timeliness of union financial reporting.

**Goal Assessment and Future Plans:** Timely reporting by unions for public disclosure availability remains an important DOL objective. The Department will continually review strategies to improve the timely filing rate, and plans to implement a goal to improve the completeness and accuracy of filed reports. In addition, DOL plans to expand the goal to address in a more comprehensive manner the program's missions to ensure union democracy and financial integrity. ■

*(Goal 2.1E — FY 2001 Annual Performance Plan)*



## PROVIDE FOR SECURE PENSION PLANS

**Increase by 2.5% per year (to 1,725) the number of closed fiduciary investigations of employee pension plans where assets are restored, prohibited transactions are corrected, participant benefits are restored, or plan assets are protected from mismanagement and risk of future loss is reduced.**

**Results:** The Department exceeded this goal, increasing by 15 percent (to 1,942) the number of pension cases where assets were restored, prohibited actions corrected, participant benefits were restored, or plan assets were protected from mismanagement and the risk of future loss was reduced.

**Program Description:** When a fiduciary's mismanagement of assets or imprudent administration places pension benefits at risk, the Department's Pension and Welfare

Benefits Administration (PWBA) acts on behalf of plan beneficiaries to minimize potential loss or to make the plan whole through the restoration of assets.

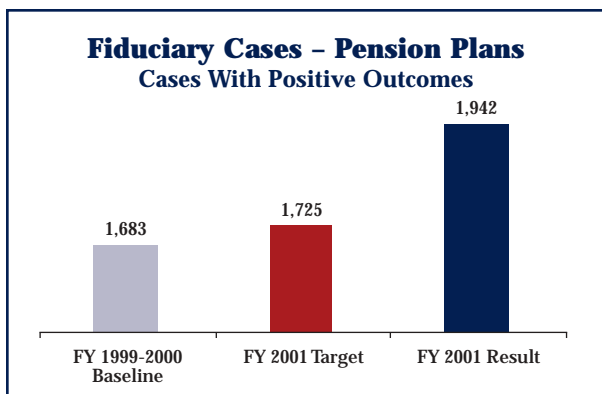
Increasing the number of cases with fiduciary results demonstrates the Department's success in protecting plan assets.

**Analysis of Results:** During the past year, the Department continued to improve the quality of cases selected for investigation as demonstrated by the continuing increases in the number of cases closed with fiduciary results, a

primary strategy for achieving the goal. In FY 2001, the Department restored approximately \$517 million to pension plans as a result of its investigative efforts — assets that, in the absence of investigative efforts, would have been lost to participants and beneficiaries. Monetary recoveries may fluctuate significantly and past performance cannot predict future performance in any given year, but recoveries have followed a generally upward trend over the past several years.

PWBA's Enforcement Management System (EMS) provides the data used to measure the achievement of this goal, and the Department has confidence in the accuracy and reliability of the data. OIG conducts regular reviews of the EMS system and PWBA has continually received high marks for its system checks and balances to ensure high quality data. In addition, individuals not involved directly with the inputting of data or the investigation must approve case openings. Cases with monetary results ultimately receive scrutiny throughout the management hierarchy up to and including national office oversight and review

**Strategies:** During FY 2001, regional offices continued to employ more effective targeting techniques to increase the number of cases converted from limited reviews to investigations in which possible fiduciary or criminal violations have been identified. Some offices requested special computer-generated targeting reports designed to aid their analysis of specific types of plans or investment/asset categories. Other offices went directly to financial institutions to assist them in identifying plans which may have a delinquent contribution problem or



which may have been abandoned by responsible plan officials. In addition, regional offices initiated localized projects to target issues that were prevalent in their jurisdictions, and shared successful strategies nationally for consideration by other regions. Lastly, in an effort to better leverage its limited investigative resources, the Department will continue its Case Opening and Results Analysis initiative to refine our efforts at identifying quality cases and their sources.

**Goal Assessment and Future Plans:**

In FY 2001, DOL established separate goals for pension and health plan enforcement to reflect increasing responsibilities in the health-related enforcement arena. The Department also set more ambitious targets given its recent experience, while continuing to protect against irregular annual fluctuations by using a two-year rolling average. For FY 2002, the Department has raised the targeted performance level to a 5 percent increase over the average number of fiduciary investigations closed during the previous two years with positive, corrective results. ■

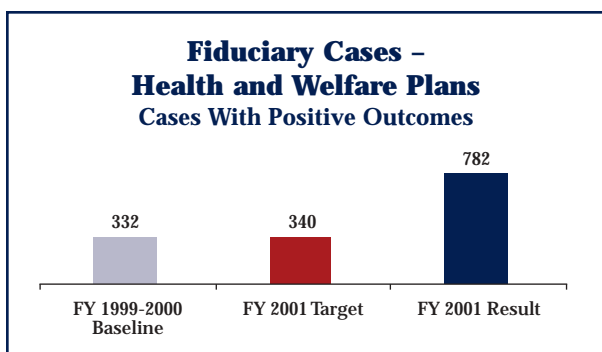
*(Goal 2.1F — FY 2001 Annual Performance Plan)*

## PROVIDE FOR SECURE HEALTH AND WELFARE PLANS

**Increase by 2.5% (to 340) per year the number of closed fiduciary investigations of employee health and welfare plans where assets are restored, prohibited transactions are corrected, participant benefits are restored, plan assets are protected from mismanagement and risk of future loss is reduced.**

**Results:** The Department exceeded this goal, increasing by 130 percent (to 782) the number of health and welfare cases where assets were restored, prohibited actions corrected, participant benefits were restored, or plan assets were protected from mismanagement and risk of future loss was reduced.

**Program Description:** The Department's role in the health care arena has expanded as a result of the



enactment of new legislation that includes regulatory and enforcement requirements to be implemented by the Pension and Welfare Benefits Administration

(PWBA). The Department exercises leadership and oversight to protect the interests of participants by ensuring the financial solvency and prudent operations of health plans. When a fiduciary's mismanagement of assets or imprudent administration places health and welfare benefits at risk, the Department acts on behalf of the plan's beneficiaries to minimize potential loss of benefits or to make

the plan whole through the restoration of assets

**Analysis of Results:** The Department's Health Disclosure and Claims initiative introduced during FY 2001 played a major role in the dramatic increase in health plan investigations closed with positive, corrective results. In recent years, DOL has dedicated substantial enforcement resources to the targeting and investigation of both civil and criminal violations relating to health benefit plans, and the Health Disclosure and Claims initiative has expanded the Department's sources of information about plans that merit attention. The Department anticipates that the continuation of the Health Disclosure and Claims initiative into FY 2002 will again facilitate the effective targeting of health plans at risk, and produce positive investigative results similar to those achieved in FY 2001.

In FY 2001, the Department restored approximately \$68 million to benefit plans or directly to participants as a result of its investigative efforts — assets that, in the absence of investigative efforts, may have been lost. Monetary recoveries may fluctuate significantly and past performance cannot predict future performance in any given year, but recoveries have followed a generally upward trend over the past several years.

PWBA's Enforcement Management System (EMS) provides the data used to measure the achievement of this goal, and the Department has confidence in the accuracy and reliability of the data. The system checks described in Goal 2.1F also apply to the data used to measure this goal.



**Goal Assessment and Future Plans:**

In FY 2001, DOL established separate goals for pension and health plan enforcement to reflect increasing responsibilities in the health-related enforcement arena. The Department also set more ambitious targets given its recent experience, while continuing to protect against irregular annual fluctuations by using a two-year rolling average. For FY 2002, the Department has raised the targeted performance level to a 5 percent increase over the average number of investigations closed during the previous two years with positive results. The continuation of the Health Disclosure and Claims initiative will permit the Department to revise this goal to better measure the effectiveness of our programs in improving the security of health plans in the 21st century. ■

*(Goal 2.1G — FY 2001 Annual Performance Plan)*